



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 1] नई दिल्ली, दिसम्बर 29, 2013—जनवरी 4, 2014, शनिवार/पौष 8—पौष 14, 1935
No. 1] NEW DELHI, DECEMBER 29, 2013—JANUARY 4, 2014, SATURDAY/PAUSA 8—PAUSA 14, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

भारी उद्योग और लोक उद्यम मंत्रालय
(भारी उद्योग विभाग)

नई दिल्ली, 12 नवम्बर, 2013

का०आ० 1.—सार्वजनिक परिसर (अनाधिकृत दखलकारों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का उपयोग करते हुए, इस विभाग द्वारा फाइल सं. 1(12)/2008-पीई-II दिनांक 30.10.2009 के तहत जारी की गई अधिसूचना के क्रम में केन्द्र सरकार एतद्द्वारा सम्पदा अधिकारी (श्री हरि शंकर चट्टोपाध्याय, कार्मिक और टाउनशिप अधिकारी, स्टाफ सं० 5566, रुपनारायणपुर इकाई, हिन्दुस्तान केबल्स लिमिटेड, कोलकाता, फिलहाल हिन्दुस्तान केबल्स लिमिटेड, रुपनारायणपुर इकाई टाउनशिप के परिसरों के साथ-साथ एचसीएल, क्षेत्रीय कार्यालय, कोलकाता के परिसरों के लिए सम्पदा अधिकारी के रूप में कार्यरत) के क्षेत्राधिकार की सीमा को निम्नलिखित परिसरों के लिए बढ़ाती है:—

- 315, जोधपुर पार्क, कोलकाता-700068 स्थित परिसर
- गोल्फ लिंक अपार्टमेंट्स, 50 चंडीला लेन, कोलकाता-700040 स्थित चार फ्लेट (फ्लेट सं० जे-ओ, ई-1, ई-2 और एल-2)
- मशीन टूल वर्क्स, पी०ओ० नरेन्द्रपुर, कोलकाता-700103

[सं. 1(12)/2008-पीई-II]
एल. सी. राम, अवर सचिव

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC
ENTERPRISES

(Department of Heavy Industry)

New Delhi, the 12th November, 2013

S.O. 1.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government in continuation of this Department's Notification issued under F. No. 1(12)/2008-PE-II dated 30.10.2009, hereby extends the limit of Jurisdiction of the Estate Officer (Shri Hari Shankar Chattopadhyay, Personnel & Township Officer, Staff No. 5566, Rupnarainpur Unit, Hindustan Cables Limited, Kolkata, presently working as Estate Officer for premises of Hindustan Cables Limited, Rupnarainpur Unit Township as well as premises of HCL, Regional Office, Kolkata) for the following premises:—

- Premises at 315, Jodhpur Park, Kolkata-700068.
- 4 flats at Golf Link Apartments, 50 Chanditala Lane, Kolkata -700040 (Flat Nos. J-O, E-1, E-2 & L-2).
- Machine Tool Works, P.O. Narendrapur, Kolkata-700103.

[No. 1(12)/2008-PE-II]
L. C. RAM, Under Secy.

कोयला मंत्रालय

आदेश

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 2.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का०आ० 497 (अ), तारीख 28 फरवरी, 2013, जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 1 मार्च, 2013 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या उस पर के अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है), उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्मांतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का समाधान हो गया है कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (महाराष्ट्र) (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये रजामंद है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में और उस भूमि में यह उस पर के अधिकार तारीख 01 मार्च, 2013 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्:—

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;

2. शर्त (1) के अधीन, सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और ऐसे किसी अधिकरण और ऐसे उक्त अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में, जैसे अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत सभी व्यय भी, इसी प्रकार सरकारी कंपनी द्वारा वहन किए जाएंगे;

3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;

4. सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के

बिना, इस प्रकार निहित उक्त भूमि और उक्त भूमि में या उस पर के अधिकारों को किसी अन्य व्यक्तियों को अंतरित करने की शक्ति नहीं होगी; और

5. सरकारी कंपनी, ऐसे निर्देशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी।

[फा.सं. 43015/12/2010-पीआरआईडब्ल्यू-I]

वी. एस. राणा, अवर सचिव

MINISTRY OF COAL

ORDER

New Delhi, the 19th December, 2013

S.O. 2.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, Number S.O. 497(E), dated the 28th February, 2013, published in the Gazette of India, Extraordinary, Part-II, Section 3. Sub-Section (ii), dated the 1st March, 2013, issued under Sub-Section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and the rights in or over the land described in the Scheduled appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under Sub-Section (1) of Section 10 of the said Act;

And whereas, the Central Government is satisfied that the Western Coalfields Limited, Nagpur (Maharashtra) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the said land and the rights in or over the said land so vested shall, with effect from 1st March, 2013, instead of continuing to so vest in the Central Government, vest in the Government company, subject to the following terms and conditions, namely:—

1. the Government company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;

2. a Tribunal shall be constituted Under Section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the Government company under conditions (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the said Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in

connection with the rights, in or over the said land, so vested, shall also be borne by the Government company;

3. the Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested;

4. the Government company shall have no power to transfer the land and the rights in or over the said land so vested, to any other person without the prior approval of the Central Government; and

5. the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land, as and when necessary.

[F.No. 43015/12/2010-PRIW-I]

V. S. RANA, Under Secy.

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 3.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 7 की उपधारा (1) के अधीन जारी भारत सरकार के कोयल मंत्रालय की अधिसूचना संख्या का०आ० 2857 तारीख 12 सितम्बर, 2012 जो भारत के राजपत्र

भाग II, खण्ड 3, उपखण्ड (ii), तारीख 15 सितम्बर, 2012 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट 809.508 हेक्टेयर या 2000.29 एकड़ की भूमि और उस पर के सभी अधिकारों का अर्जन करने के अपने आशय की सूचना दी थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 8 के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है; और केन्द्रीय सरकार का पूर्वोक्त रिपोर्ट पर विचार करने के पश्चात् और छत्तीसगढ़ सरकार से परामर्श करने के पश्चात् यह समाधान हो गया है कि इससे संलग्न अनुसूची में वर्णित 721.313 हेक्टर (लगभग) या 1782.36 एकड़ (लगभग) माप वाली भूमि के सभी अधिकार अर्जित किए जाने चाहिएं।

अतः अब केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इससे संलग्न अनुसूची में यथा वर्णित 721.313 हेक्टर (लगभग) या 1782.36 एकड़ (लगभग) माप वाली भूमि में या उस पर ऊपर के अधिकार अर्जित किए जाते हैं।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/442, तारीख 22 अप्रैल, 2013 का निरीक्षण कलेक्टर, रायगढ़ (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साउथ कोलफिल्ड्स लिमिटेड (राजस्व अनुभाग) सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

अनुसूची

छाल विवृत विस्तार ब्लाक,
रायगढ़ क्षेत्र, जिला (छत्तीसगढ़)

(रेखांक संख्या-एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/442, तारीख 22 अप्रैल, 2013)

सभी अधिकार:

(क) राजस्व भूमि:

क्रम सं०	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणी
1.	चंदशेखरपुर	31	धरमजयगढ़	रायगढ़	78.812	भाग
2.	नवापारा	31	धरमजयगढ़	रायगढ़	30.188	भाग
3.	छाल	30	धरमजयगढ़	रायगढ़	120.133	भाग
4.	खेदापाली	31	धरमजयगढ़	रायगढ़	79.834	भाग
5.	बंधापाली	30	धरमजयगढ़	रायगढ़	220.032	भाग
6.	पुसल्दा	31	धरमजयगढ़	रायगढ़	7.297	भाग

कुल: 536.296 हेक्टर (लगभग) या 1325.19 एकड़ (लगभग)

(ख) राजस्व वन भूमि (सीजेजे और बीजेजे):

क्रम सं०	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणी
1.	खेदापाली	31	धरमजयगढ़	रायगढ़	8.307	भाग

कुल: 8.307 हेक्टर (लगभग) या 20.52 एकड़ (लगभग)

(ग) वन भूमि:

क्रम सं०	वन का नाम	वन का प्रकार	रेंज	डिवीजन	क्षेत्र हेक्टर में	टिप्पणी
1.	लात (1115/478)	पीएफ	छाल	धरमजयगढ़	176.710	पूर्ण

कुल: 176.710 हेक्टर (लगभग) या 436.65 एकड़ (लगभग)

कुल योग (क+ख+ग): 721.313 हेक्टर (लगभग)

या 1782.36 एकड़ (लगभग)

1. ग्राम चंद्रशेखरपुर (भाग) में अर्जित किए जाने वाले प्लाट संख्या:—

2 से 78, 92 से 115, 141, 147, 148, 150, 151, 266 से 271, 277 से 279, 395, 428.

2. ग्राम नवापारा (भाग) में अर्जित किए जाने वाले प्लाट संख्या:— 445, 466, से 515, 517, 518, 521 से 523.

3. ग्राम छाल (भाग) में अर्जित किए जाने वाले प्लाट संख्या:— 1031 से 1038, 1061 से 1064, 1071 से 1097, 1120 से 1130, 1277, 1278, 1288 से 1319, 1321 से 1354, 1356 से 1359, 1364, 1365, 1367 से 1416.

4. ग्राम खेदापाली (भाग) में अर्जित किए जाने वाले प्लाट संख्या:— 1 से 18, 30, 31, 33, 34, 36, 80 से 95, 103 से 107, 2/134.

5. ग्राम बंधापाली (भाग) में अर्जित किए जाने वाले प्लाट संख्या:— 1 से 24, 33, 34, 36 से 38, 48, 49, 55 से 76, 85, 86, 114 से 127, 168, 169, 171, 173 से 179, 183 से 412.

6. ग्राम पुसल्दा (भाग) में अर्जित किए जाने वाले प्लाट संख्या:— 1 से 3.

सीमा वर्णन :

ब्लाक—I:

क-ख रेखा, “क” बिन्दु से प्रारंभ होती है और ग्राम लात-खेदापाली की सम्मिलित सीमा से गुजरती है और “ख” बिन्दु पर मिलती है।

ख-ग रेखा, “ख” बिन्दु से प्रारंभ होती है और संरक्षित वन के उत्तरी, पश्चिमी और दक्षिणी सीमा तथा ग्राम लात-चंद्रशेखरपुर के सम्मिलित सीमा से होती हुई गुजरती है और “ग” बिन्दु पर मिलती है।

ग-घ रेखा, बिन्दु “ग” से प्रारंभ होती है और ग्राम चंद्रशेखरपुर के प्लाट संख्या 147, 148 की पश्चिमी सीमा, प्लाट संख्या 148 की दक्षिणी सीमा, प्लाट संख्या 150/1क की पूर्वी सीमा, प्लाट संख्या 269/2, 268, 267/2 की पश्चिमी सीमा, प्लाट संख्या 256/2ग की पूर्वी, प्लाट संख्या 269/1क, 279, 277 की दक्षिणी, 277, 271/1क, 270 की पूर्वी, 270, 269/1ग, 269 की उत्तरी सीमा से होती हुई गुजरती है और बिन्दु “घ” पर मिलती है।

घ-ङ रेखा बिन्दु “घ” से प्रारंभ होती है और प्लाट संख्या 106/2क की पूर्वी सीमा, 107/1क की दक्षिणी सीमा, 107/1क, 103/1छ, 95/12, 85/8छ, 95/7, 95/11, 95/6, 95/5, 95/4 की पूर्वी सीमा, 94/3, 94/4 की दक्षिणी सीमा, 94/3, 80/1क, 20/5 की पूर्वी सीमा, प्लाट संख्या 18, 30 की दक्षिणी सीमा, प्लाट संख्या 30 की पूर्वी सीमा, प्लाट संख्या 34, 33, 36/1 की दक्षिणी सीमा, प्लाट संख्या 36/1 की पूर्वी सीमा, प्लाट संख्या 5/2 की दक्षिणी और पूर्वी सीमा से होती हुई ग्राम खेदा पाली से गुजरते हुए बिन्दु “ङ” पर मिलती है।

ङ-च रेखा बिन्दु “ङ” से प्रारंभ होती है और ग्राम खेदापाली-बंधापाली, ग्राम बंधापाली-पुसल्दा के भागतः सम्मिलित सीमा, ग्राम पुसल्दा के प्लाट संख्या 2/2, 2/3, 3/3, 4/4 की दक्षिणी और पूर्वी सीमा से होती हुई गुजरती है और बिन्दु “च” पर मिलती है।

च-छ रेखा बिन्दु “च” से प्रारंभ होती है और ग्राम नवापारा की भागतः दक्षिणी और पूर्वी सीमा से होकर ग्राम नवापारा के प्लाट संख्या 521 के उत्तरी, संख्या 518, 445 के पूर्वी, 445 के उत्तरी, प्लाट संख्या 515 के पूर्वी, प्लाट संख्या 515, 493, 466/5, 466/6, 466/7, 466/4 के उत्तरी सीमा से गुजरती हुई और बिन्दु “छ” पर मिलती है।

छ-ज रेखा बिन्दु “छ” से प्रारंभ होती है और ग्राम बंधापाली-नवापारा के भागतः सम्मिलित सीमा से होकर ग्राम बंधापाली के प्लट संख्या 188, 187, 186, 183, 179, 176, 171, 169, 168, 127 की उत्तरी सीमा, प्लट संख्या 127 की पश्चिमी सीमा, प्लट संख्या 114 की उत्तरी सीमा, प्लट संख्या 85, 86 की उत्तरी सीमा और पश्चिमी सीमा, प्लट संख्या 76, 55, 56/1, 56/2, 49, 48 की उत्तरी सीमा, प्लट संख्या 38/2, 38/1, 36/3, 36/2, 36/1, 37, 34, 33, 21 की पूर्वी सीमा से गुजरती है और बिन्दु “ज” पर मिलती है।

ज-झ रेखा बिन्दु “ज” से प्रारंभ होती है और ग्राम बंधापाली के भागतः उत्तरी सीमा से होकर ग्राम छाल के प्लट संख्या 1278, 1337, 1336, 1335, 1334, 1333, 1332, की उत्तरी सीमा प्लट संख्या 1321, 1319 की पूर्वी सीमा, प्लट संख्या 1319, 1318, 1288, 1290, 1289, 1128, 1129, 1130, 1126, 1124, 1123, 1122 की उत्तरी सीमा, प्लट संख्या 1122, 1121 की पूर्वी सीमा, प्लट संख्या 1097, 1096, 1095, 1071, 1072, 1064 की उत्तरी सीमा, प्लट संख्या 1061, 1062, 1038, 1036, 1035, 1034, 1031, 1076, 1077, 1078, 1019 की पश्चिमी सीमा से होती हुई गुजरती है और बिन्दु “झ” पर मिलती है।

झ-क रेखा बिन्दु “झ” से प्रारंभ होती है और ग्राम छाल-लात के भागतः सम्मिलित सीमा से होती हुई जाती है फिर ग्राम छाल के प्लट संख्या 1354, 1356 की पूर्वी सीमा, प्लट संख्या 1359, 1364/4, 1364/5, 1402 की दक्षिणी सीमा, प्लट संख्या 1395, 1367, 1368, 1376/3, 1375/1 की पश्चिमी सीमा और ग्राम छाल-लात, लात-बंधापाली के भागतः सम्मिलित सीमा से होती हुई गुजरती है और आरंभिक बिन्दु “क” पर मिलती है।

ब्लाक—II:

ज-ट रेखा ग्राम चंद्रशेखरपुर-लात के सम्मिलित सीमा में बिन्दु “ज” से प्रारंभ होती है और ग्राम चंद्रशेखरपुर-लात के भागतः सम्मिलित सीमा से गुजरती है और बिन्दु “ट” पर मिलती है।

ट-ठ रेखा बिन्दु “ट” से प्रारंभ होती है और मांड नदी के उत्तरी किनारे से गुजरती है और उसी किनारे के बिन्दु “ठ” पर मिलती है।

ठ-ड रेखा बिन्दु “ठ” से प्रारंभ होती है और ग्राम चंद्रशेखरपुर के प्लट संख्या 78, 76/1 की पूर्वी सीमा, प्लट संख्या 76/1,

75/1, 92/2 की दक्षिणी और पूर्वी सीमा, प्लट संख्या 92/1 की पूर्वी सीमा, प्लट संख्या 95 की दक्षिणी और पूर्वी सीमा, प्लट संख्या 115, 114 की पूर्वी सीमा, प्लट संख्या 110/1, 141/1-141/3 की दक्षिणी सीमा से गुजरती है और बिन्दु “ड” पर मिलती है।

ड-ज रेखा बिन्दु “ठ” से प्रारंभ होती है और ग्राम चंद्रशेखरपुर के प्लट संख्या 141/1-141/3 की पूर्वी सीमा, प्लट संख्या 107/2 से होकर, प्लट संख्या 111/1, 106/1 की पूर्वी सीमा और प्लट संख्या 107/1 से गुजरती है और आरंभिक बिन्दु “ज” पर मिलती है।

[फा० सं० 43015/19/2010- पीआरआईडब्ल्यू-I]

वी० एस्० राणा, अवर सचिव

New Delhi, the 24th December, 2013 i

S.O. 3.—Whereas by the notification of the Government of India in the Ministry of Coal Number S.O. 2857 dated the 12th September, 2012 issued under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 15th September, 2012 the Central Government gave notice of its intention to acquire 809.508 hectares or 2000.29 acres land as all rights in or over such lands specified in the Schedule appended to that notification;

And whereas the competent authority in pursuance of section 8 of the said Act, has made his report to the Central Government;

And whereas the Central Government after considering the aforesaid report and after consulting the Government of Chhattisgarh, is satisfied that the land measuring 721.313 hectares (approximately) or 1782.36 acres (approximately) all rights in or over such land as described in schedule appended hereto, should be acquired.

Now therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the land measuring 721.313 hectares (approximately) or 1782.36 acres (approximately) as all rights in or over such land as described in schedule appended hereto are hereby acquired.

The plan bearing number SECL/BSP/GM(PLG)/Land/442, dated the 22nd April, 2013 of the area covered by this notification may be inspected in the Office of the Collector, Raigarh (Chhattisgarh) or in the office of the Coal Controller, 1 Council House Street, Kolkata - 700001 or in the Office of the South Eastern Coalfield Limited (Revenue Section) Seepat Road, Bilaspur-495006 (Chhattisgarh);

SCHEDULE**Chhal Opencast Expansion Mine Block,
Raigarh Area, District Raigarh (Chhattisgarh)**

(Plan bearing number SECL/BSP/GM(PLG)/Land/442, dated the 22nd April, 2013)

All Rights: (A) Revenue Land:

Sl. No.	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Chandra-shekharapur	31	Dharamjaigarh	Raigarh	78.812	Part
2.	Nawapara	31	Dharamjaigarh	Raigarh	30.188	Part
3.	Chhal	30	Dharamjaigarh	Raigarh	120.133	Part
4.	Khedapali	31	Dharamjaigarh	Raigarh	79.834	Part
5.	Bandhapali	30	Dharamjaigarh	Raigarh	220.032	Part
6.	Pusalda	31	Dharamjaigarh	Raigarh	7.297	Part

Total: 536.296 hectares (approximately) or 1325.19 acres (approximately)

(B) Revenue Forest Land (CJJ & BJJ):

Sl. No.	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Khedapali	31	Dharamjaigarh	Raigarh	8.307	Part

Total: 8.307 hectares (approximately) or 20.52 acres (approximately)

(C) Forest Land:

Sl. No.	Name of Forest	Type of Forest	Range	Division	Area in hectares	Remarks
1.	Lat (1115/478)	PF	Chhal	Dharamjaigarh	176.710	Full

Total: 176.710 hectares (approximately) or 436.65 acres (approximately)**Grand Total (A+B+C)=721.313 hectares (approximately)
or 1782.36 acres (approximately)**

1. Plot Numbers to be acquired in village Chandrashekharapur (Part):- 2 to 78, 92 to 115, 141, 147, 148, 150, 151, 266 to 271, 277 to 279, 395, 428.

2. Plot Numbers to be acquired in village Nawapara (Part):- 445, 466 to 515, 517, 518, 521 to 523.

3. Plot Numbers to be acquired in village Chhal (Part):- 1031 to 1038, 1061 to 1064, 1071 to 1097, 1120 to 1130, 1277, 1278, 1288 to 1319, 1321 to 1354, 1356 to 1359, 1364, 1365, 1367 to 1416.

4. Plot Numbers to be acquired in village Khedapali (Part):- 1 to 18, 30, 31, 33, 34, 36, 80 to 95, 103 to 107, 2/134.

5. Plot Numbers to be acquired in village Bandhapali (Part):- 1 to 24, 33, 34, 36 to 38, 48, 49, 55 to 76, 85, 86, 114 to 127, 168, 169, 171, 173 to 179, 183 to 412.

6. Plot Numbers to be acquired in village Pusalda (Part):- 1 to 3.

Boundary Description:**Block-I:**

A-B Line starts from point 'A' and passage along the common boundary of villages Lat - Khedapali and meets at point 'B'.

B-C Line starts from point 'B' and passes along northern, western and southern boundary of Protected Forest, along partly common boundary of villages Lat-Chandrashekharapur and meets and point 'C'.

C-D Line starts from point 'C' and passes through village Chandrashekharapur along western boundary of plot number 147, 148, southern boundary of plot number 148, eastern boundary of plot number 150/1k, western boundary of plot number 269/2, 268, 267/2, eastern boundary of plot number 256/2g, southern boundary of plot number 269/1k, 279, 277, eastern boundary of

- plot number 277, 271/1k, 270, northern boundary of plot number 270, 269/1g, 269 and meets at point 'D'.
- D-E Line starts from point 'D' and passes through village Khedapali along eastern boundary of plot number 106/2k, southern boundary of plot number 107/1k, eastern boundary of plot number 107/1k, 103/1chha, 95/12, 85/8 chha, 95/7, 95/11, 95/6, 95/5, 95/4, southern boundary of plot number 94/3, 94/4, eastern boundary of plot number 94/3, 80/1k, 20/5, southern boundary of plot number 18, 30, eastern boundary of plot number 30, southern boundary of plot number 34, 33, 36/1, eastern boundary of plot number 36/1, southern and eastern boundary of plot number 5/2 and meets at point 'E'.
- E-F Line starts from point 'E' and passes along partly common boundary of villages Bandhapali-Khedapali, Bandhapali-Pusalda, through village Pusalda along southern and eastern boundary of plot number 2/2, 2/3, 3/3, 4/4 and meets at point 'F'
- F-G Line starts from point 'F' and passes along partly southern and eastern boundary of village Nawapara, along northern boundary of plot number 521, eastern boundary of plot number 518, 445, northern boundary of plot number 445, eastern boundary of plot number 515, northern boundary of plot number 515, 493, 466/5, 466/6, 466/7, 466/4 and meets at point 'G'
- G-H Line starts from point 'G' and passes along partly common boundary of villages Bandhapali - Nawapara, through village Bandhapali along northern boundary of plot number 188, 187, 186, 183, 179, 176, 171, 169, 168, 127 western boundary of plot number 127, northern boundary of plot number 114, northern and western boundary of plot number 85, 86, northern boundary of plot number 76, 55, 56/1, 56/2, 49, 48, eastern boundary of plot number 38/2 38/1, 36/3 36/2, 36/1, 37, 34, 33, 21 and meets at point 'H'.
- H-I Line starts from point 'H' and passes along partly northern boundary of village Bandhapali then passes in village Chhal along northern boundary of plot number 1278, 1337, 1336, 1335, 1334, 1333, 1332 eastern boundary of plot number 1321, 1319, northern boundary of plot number 1319, 1318, 1288, 1290, 1289, 1128, 1129, 1130, 1126, 1124, 1123, 1122, eastern boundary of plot number 1122, 1121, northern boundary of plot number 1097, 1096, 1095, 1071, 1072, 1064, western boundary of plot number 1061, 1061, 1038, 1036, 1035, 1034, 1031, 1076, 1077, 1078, 1019 and meets at point 'I'.
- I-A Line starts from point 'I' and passes along partly common boundary of villages Chhal -Lat then passes in village Chhal along eastern boundary of plot number 1354, 1356, southern boundary of plot number

1359, 1364/4, 134/5, 1402, western boundary of plot number 1395, 1367, 1368, 1376/3, 1375/1, along partly common boundary of villages Chhal-Lat, Lat-Bandhapali and meets at starting point 'A'.

Block-II:

- J-K Line starts from point 'J' on the common boundary of villages Lat-Chandrashekharpur and passes along partly common boundary of villages Lat-Chandrashekharpur and meets at point 'K'
- K-L Line starts from point 'K' and passes along northern bank of Mand River and meets at point 'L' on the same bank.
- L-M Line starts from point 'L' and passes through village Chandrashekharpur along eastern boundary of plot number 78, 76/1, southern and eastern boundary of plot number 76/1, 75/1, 92/2, eastern boundary of plot number 92/1, southern and eastern boundary of plot number 95, eastern boundary of plot number 115, 114, southern boundary of plot number 110/1, 141/1-141/3 and meets at point 'M'
- M-J Line starts from point 'M' and passes through village Chandrashekharpur along eastern boundary of plot number 141/1-141/3, through plot number 107/2, eastern boundary of plot number 111/1, 106/1, through plot number 107/1 and meets at starting point 'J'

[F.No. 43015/19/2010-PRIW-I]

V. S. RANA, Under Secy.

आदेश

नई दिल्ली, 27 दिसम्बर, 2013

का०आ० 4.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी, भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 14 अप्रैल, 2012 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 1335, तारीख 10 अप्रैल, 2012, पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) के 110.663 हेक्टर (लगभग) या 273.448 एकड़ (लगभग) में या उस पर के भूमि और अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यांतिक रूप में केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि वेस्टर्न कोलफील्ड्स लिमिटेड, कोल एस्टेट, सिविल लाईन्स, नागपुर (महाराष्ट्र) (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का, जिनका केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये रजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती

है कि उक्त भूमि के 110.663 हेक्टर (लगभग) या 273.448 एकड़ (लगभग) में या उस पर के इस प्रकार निहित अधिकार, तारीख 14 अप्रैल, 2012 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्:—

(1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;

(2) शर्त (1) के अधीन, सरकारी कंपनी द्वारा, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और ऐसे किसी अधिकरण और उक्त अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपीलें, आदि, जैसी सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे;

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;

(4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, भूमि और उक्त भूमि में या उस पर के इस प्रकार निहित अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

(5) सरकारी कंपनी, ऐसे निर्देशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा.सं. 43015/16/2009-पीआरआईडब्ल्यू-I]

वी० एस० राणा, अवर सचिव

ORDER

New Delhi, the 27th December, 2013

S.O. 4.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 1335, dated the 10th April, 2012, in the Gazette of India, Part II, Section 3, Sub-Section (ii), dated the 14th April, 2012, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and rights in or over 110.663 hectares (approximately) or 273.448 acres (approximately) of land as described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under Sub-Section (1) of Section 10 of the said Act;

And, whereas, the Central Government is satisfied that the Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur (Maharashtra) (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by Sub-Section (1) of Section 11 of the said Act, the Central Government hereby directs that the 110.663 hectares (approximately) or 273.448 acres (approximately) of land in all rights in or over the said land so vested shall, with effect from the 14th April, 2012, instead of continuing to so vest in the Central Government, vest in the Government company, subject to the following terms and conditions, namely:—

(1) the Government company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;

(2) a Tribunal shall be constituted under Section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the said Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights, in or over the said land, so vested, shall also be borne by the Government company;

(3) the Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested;

(4) the Government company shall have no power to transfer the land and the rights in or over the said land so vested, to any other person without the prior approval of the Central Government; and

(5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F.No. 43015/16/2009-PRIW-I]

V. S. RANA, Under Secy.

आदेश

नई दिल्ली, 27 दिसम्बर, 2013

का०आ० 5.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त

अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी, भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 27 अक्टूबर, 2012 में प्रकाशित, भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का० आ० 3239 तारीख 16 अक्टूबर, 2012, के प्रकाशन पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और भूमि में या उस पर के सभी अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यांतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, डाकघर संख्या 60, जिला - बिलासपुर-495006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि और उक्त भूमि में यह उस पर के इस प्रकार निहित अधिकार तारीख 27 अक्टूबर, 2012 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्:—

(1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर ब्याज, नुकसानियों और वैसी ही मदों की बाबत, किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;

(2) शर्त (1) के अधीन सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और ऐसे किसी अधिकरण और उक्त अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपील, आदि, सभी विधिक कार्यवाहियों की बाबत, उपगत, सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे;

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उसपर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;

(4) सरकारी कंपनी को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, भूमि और उक्त भूमि में या उस पर के इस प्रकार निहित अधिकार को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

(5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा० सं० 43015/18/2010-पीआरआईडब्ल्यू-1]

वी० एस० राणा, अवर सचिव

ORDER

New Delhi, the 27th December, 2013

S.O. 5.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 3239 dated the 16th October, 2012, in the Gazette of India, Part II, Section 3, sub-section (ii), dated the 27th October, 2012, issued under sub-section (1) of Section 9 of the Coal Bearing areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and the rights in the over the land described in the schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act.

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, Post Box No. 60, district-Bilaspur-495006 (Chhattisgarh) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in the exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government thereby directs that the said land and the rights in or over the said land so vested shall with effect from dated the 27th October, 2012 instead of continuing to so vest in the Central Government, vest in the Government company, subject to the following terms and conditions, namely:—

(1) the Government company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;

(2) a Tribunal shall be constituted under Section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1), and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the said Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights in or over the said land, so vested shall also be borne by the Government company;

(3) the Government company shall indemnify the Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials, regarding the rights in or over the said land so vested;

(4) the Government company shall have no power to transfer the land and the rights in or over the said land so vested, to any other person without the prior approval of the Central Government; and

(5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land, as and when necessary.

[F.No. 43015/18/2010-PRIW-I]
V. S. RANA, Under Secy.

गृह मंत्रालय

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 6.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (1987 में यथा संशोधित) के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के पफलस्वरूप उन्हें एतद्द्वारा अधिसूचित करती है :

1. आर.टी.सी. किमिन, भा.ति.सी. पुलिस बल, (अरुणाचल प्रदेश)
2. सेन्ट्रल फ्रंटियर मुख्यालय, भा.ति.सी. पुलिस बल, भोपाल (म.प्र.)
3. क्षेत्रीय मुख्यालय, भा.ति.सी. पुलिस बल, पटना (बिहार)
4. 46वीं वाहिनी, भा.ति.सी. पुलिस बल, कानपुर (उ.प्र.)
5. 48वीं वाहिनी, भा.ति.सी. पुलिस बल, कटिहार (बिहार)

[सं. 12017/1/2012-हिन्दी]

अवधेश कुमार मिश्र, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 19th December, 2013

S.O. 6.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following offices of the Ministry of Home Affairs wherein the percentage of the staff having working knowledge of Hindi has gone above 80%.

1. R.T.C. Kimin, I.T.B.P. Police Force (Arunachal Pradesh).
2. Central Frontier Headquarter, I.T.B.P. Police, Bhopal, (M.P.)
3. Regional Headquarter, I.T.B.P. Police Force, Patna (Bihar)
4. 46th Battalion, I.T.B.P. Police Force, Kanpur (U.P.)
5. 48th Battalion, I.T.B.P. Police Force, Katihar (Bihar)

[No. 12017/1/2012-Hindi]

AVADHESH KUMAR MISHRA, Director (OL)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 दिसम्बर, 2013

का०आ० 7.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेस्टर्न नवल कमांड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 2/1-2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.12.2013 को प्राप्त हुआ था।

[सं० एल-42025/07/2013-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th December, 2013

S.O. 7.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Filed under Section 33-A in the matter of Complaint arising out of Ref. No. 2/1 of 2010) as shown in the Annexure, in the industrial dispute between the management of Western Naval Command and their workman, received by the Central Government on 17.12.2013.

[No. L-42025/07/2013-IR(DU)]

P. K. VENU GOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT:

K.B. KATAKE, Presiding Officer

COMPLAINT No. CGIT-2/1 of 2010

(Arising out of Ref. CGIT-2/14 of 2010)

Indian Naval Employees Union

12/14, Rajgir Chambers

Room No. 60, 7th Floor

Shahid Bhagat Singh Road,

Opp. Old Custom House

Mumbai-400 023.

: Complainant

V/S.

The Flag Officer Commanding-in-Chief

Headquarters

Western Naval Command

Shahid Bhagat Singh Road

Mumbai-400 023.

: Opponent.

APPEARANCES:

For the complainant : Mr. J.H. Sawant, Advocate

For the opponent : Mr. N.J. Gonsalves,
Advocate.

Mumbai, dated the 9th July, 2013

AWARD

1. This complaint is filed under Section 33-A of the Industrial Disputes Act, 1947. According to the complainant the opponent has engaged 23 women workmen for the purpose of cleaning rice for the use of officers and other staff members. They are doing the work of permanent nature since 1984—90. The workmen placed in similar circumstances have been regularized in service. There are also number of posts vacant where these women can be absorbed and regularized. Two women died and the 21 women have raised industrial dispute and Ref. CGIT-2/14 of 2010 is pending before this Tribunal. The second party has terminated the services of 17 workmen. Termination of their services is illegal and improper. Therefore the union has filed this complaint against the opponent and prays for declaration that action of the opponent is in contravention to the provision made under Section 33 of the I.D. Act 1947 by refusing work and wages and consequential benefits to the 17 women workmen and terminating their service *w.e.f.* 22.09.2009 during pendency of Ref. CGIT-2/14 of 2010. They also pray for direction to reinstate the 17 women workmen in their services *w.e.f.* 22.09.2009 with full back-wages from 22.09.2009 and all consequential benefits and also prays to award punishment to the opponent for terminating the services of these workmen in contravention of Section 33 of the I.D. Act.

2. The opponent resisted the complaint vide their written statement at Ex-8. According to them, the complaint is misconceived, devoid of merit and not maintainable in law. The women workmen were engaged by the opponent on nerrick rate of pay for cleaning rice as required basis. The union cannot represent the casual workmen employed on nerrick rate of pay. No post of rice cleaner was created by Defence Ministry. Therefore though cleaning is a continuous process question of regularization of rice cleaners does not arise. Navy used to get un-cleaned rice earlier from ASC of the Army and as such casual rice cleaners were being employed. The service of rice cleaners have been terminated since rice is not being obtained from ASC of Army for which cleaning and processing was required. These rice cleaners were not recruited through Employment Exchange. In these circumstances, though some of the casual rice cleaners have completed 240 days in a year, they are not qualified for regularization in the service. Neither they are eligible not entitled for regularization. There is no employer-employee relation between them. In the circumstances the opponent claimed that the complaint is not tenable and prays that same be dismissed with cost.

3. The Union filed rejoinder at Ex-9. They denied the contents in the written statement and reiterated their case in the complaint.

4. Following are the points for my determination. I record my findings thereon for the reasons to follow:

Sr.No. Points**Findings**

- | | |
|---|--------------------------|
| 1. Whether the complainant has proved that the opponent has altered the terms of the services of the workmen in question during pendency of the industrial dispute? | Yes |
| 2. Whether there was contravention of Section 33(1) A on the part of opponent and whether the complaint under Section 33A is maintainable? | Yes |
| 3. Whether the workmen are entitled to any relief? | Yes, as per order below. |
| 4. What order? | As per order below. |

REASONS**Points nos. 1 & 2:—**

5. Both these points are interrelated, therefore, in order to avoid repetition of discussion they are discussed and decided simultaneously. In this respect the fact is not disputed that the 17 women workmen were working as rice cleaners. The fact is also not disputed that, they had raised industrial dispute and their Reference bearing No. Ref. CGIT/37 of 2006 was pending before CGIT-1, Mumbai. The said reference is for regularization of services of these women workmen in the establishment of the opponent. During pendency of the said reference the opponent has terminated the services of these 17 women workmen by its order dt. 15.9.2009. In this respect according to the opponent the women workmen were casual labourers employed on nerrick rate of pay and as and when required basis. Therefore termination of services of such employees is not in violation of Section 33(1) (a). Therefore it is submitted on behalf of the opponent that, the complaint is not maintainable. In support of his argument the Ld., adv. for the opponent resorted the Apex Court ruling in Secretary, State of Karnataka & Ors. V/s. Uma Devi & Ors. 2006 (4) SC ALE 197. wherein the Hon'ble Court in respect of contractual or casual labourers observed that:

"Merely because he is continued beyond his term of appointment does not entitle him to be absorbed in regular service or made permanent."

6. In this ruling the Hon'ble Court also held that if original appointment was not made by following a due process of selection, such an employee is not entitled to be absorbed in regular service. In this respect I would like to point out that, the ruling is not in respect of either violation of Section 33(1) (a) or in respect of maintainability of complaint under Section 33-A of the I.D. Act. Question as to whether casual, temporary or contractual worker can

be absorbed or regularized in service is not the issue before this Tribunal while adjudicating the complaint under Section 33-A of the I.D. Act. Therefore the ratio laid down in this ruling is not attracted to the set of facts of the present case.

7. In this respect the Ld. adv. for the complainant submitted that during pendency of dispute in respect of the workmen; may they be casual, temporary or contractual, if their service conditions are changed during pendency of dispute, it is in contravention of Section 33(1) (a) of the I.D. Act. In support of his argument the Ld. adv. resorted to Apex Court ruling in the Bhavnagar Municipality V/s. Ali Bhai Karim Bhai and ors. 1977 LAB. I.C. 834. In that case during the pendency of an Industrial dispute between a Municipality and its daily rated workers in its Water Works Section before the Tribunal the Municipality retrenched these workers without obtaining the prior permission of the Tribunal and the subject matter of the dispute was directly connected with the convergent of the temporary employment of such workers into permanent. In the circumstances On Hon'ble Apex Court observed that:

".....such tampering with status quo ante of these workers was a clear alteration of the conditions of their service. The alteration was in regard to a matter connected to the pending industrial dispute. Thus there was contravention of Section 33(1) (a) on the part of the Municipality and a complaint under Section 33 A at the instance of such workers was maintainable."

8. On the point the Ld. adv. also cited Gujarat High Court ruling in Gujarat State Road Transport Corp V/s. Shabir Hussain G. Sheikh 2012 II CLR 959 wherein Hon'ble Court on the point held that when dispute in respect of regularization of service of the workman is pending, the management cannot issue an order of discharge or reversion of the workman, without seeking approval of the Tribunal before which the dispute is already pending.

9. In the case at hand the services of workmen were terminated during pendency of the dispute. The dispute was raised on behalf of these workmen for regularization of their services. Thus it is clear that the opponent has passed the order of termination in violation of Section 33(1) (a) of the I.D. Act. Thus I hold that the complaint is maintainable. Accordingly I decide this points Nos. 1 & 2 in the affirmative.

Point No. 3:—

10. In this respect I would like to point out that the reference between the parties was already decided and the opponent was directed to absorb them in regular service of the establishment of the opponent with arrears. As the services of these workmen were terminated during pendency of the reference, I think it proper to direct the opponent to pay full back-wages from the date of their termination till

the date of their reinstatement. Accordingly I decide this point No. 3 and proceed to pass the following order:

ORDER

- (i) The order of terminating the services of the workman was in contravention of Section 33-A of the Industrial disputes Act.
- (ii) The opponent is directed to reinstate in the service of their establishment these 17 women workmen forthwith with full back wages from the date of their termination.

Date: 09.07.2013

K.B. KATAKE, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 8.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आल इंडिया रेडियो, कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 57/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/101/1989-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 8.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of All India Radio, Kota and their workmen, which was received by the Central Government on 18-12-2013.

[No. L-42012/101/1989-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

N.K. PUROHIT, Presiding Officer

I.D. 57/2004

Reference No. L-42012/101/1989-IR(DU) Dated: 1.9.2004

Sh. Rameshwar Prasad Nagar
H.No. 594, Mahavir Nagar-II
Kota (Rajasthan)

V/s

The Assistant Station Director
All India Radio, Kota (Rajasthan)

Present:

For the applicant : Sh. R.C. Jain
 For the non-applicant : Sh. T.P. Sharma

AWARD

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:

"Whether the action of the management of All India Radio, Kota in terminating the services of Sh. Rameshwar Prasad Nagar *w.e.f.* 18.3.1989 is legal & justified? If not, to what relief the concerned workman is entitled?"

2. The workman in his statement of claim has pleaded that he was employed by the non-applicant on 17.10.87 as daily wages class IV employee. The non-applicant has terminated his services on 17.3.1989 without assigning any reason. It has further been pleaded that despite he had worked continuously during period from 17.10.87 to 16.3.89 & had worked for more than 240 days during the said period, his services have been terminated without any notice or any notice pay or compensation in violation of Section 25-F of the I.D.Act. It has been alleged that while terminating the services of the workman no seniority list was prepared & juniors to him were retained in the job in violation of Section 25-G of the I.D.Act. It has also been alleged that after terminating the services of the workman new hands Sh.Mahendra & Sh. Balkishan were employed by the non-applicant without any offer of re-employment to the workman in violation of Section 25-H of the I.D. Act. Thus, the workman has prayed for his reinstatement with back wages & other consequential benefits.

3. Disputing the claim, the non applicant in his written counter averred that non-applicant establishment is not an 'Industry' within the definition of 'Industry' u/s 2-J of the I.D. Act. It has been denied that workman was employed as daily wages class IV employees. The non-applicant has further averred that workman was engaged only as casual labour & as such he has worked for 195 days only during 17 months period from Oct, 87 to Feb, 89. Since, the workman was engaged as casual worker for casual work only, provisions of Section 25-F are not attracted.

4. Following points for determination were framed:—

- I. Whether the workman was appointed as a 4th Class employee by the non-applicant on 17.10.1987, who continuously worked up to 16.3.89 and whose service was terminated on 17.3.1989 in violation of the provision under Section 25-F of the Act?
- II. Whether at the time of terminating the service of the workman, the junior employees to him were retained

by the management in violation of Section 25-G of the Act and Rule 77 of the Industrial Disputes Rules, 1957?

- III. Whether after the termination of the service of workman the new appointments as pointed out at para 7 of the claim statement were made by the management in violation of Section 25-H of the Act and Rule 78 of the Industrial Disputes Rules, 1957?
- IV. Whether the non-applicant establishment is not an industry as defined under Section 2-J of the Act?
- V. Relief, if any.

5. In evidence, the workman has submitted his affidavit in support of his claim. In rebuttal, the non-applicant has filed the counter affidavits of Sh. Ramkaran Meena, Programme Executive & Sh. Nanu Ram Meena. Documentary evidence has also been adduced by both the sides.

6. It is pertinent to mention that a application was filed by the workman on 29.4.05 at the stage of defence evidence to call for documents such as dispatch register, attendance register, payment vouchers, monthly statement of wages of the relevant period from the non-applicant which was rejected vide order dated 24.5.05. The said order was challenged in S.B. civil W.P. No. 5179/2005. Hon'ble High Court while allowing the said application *vide* order dated 11.8.05, set aside the order dated 24.5.05 & directed the non-applicant to produce all the documents which were referred in the application. Upon perusal of the record it appears that certain documents were produced by the non-applicant on 14.10.05. Thereafter, an additional affidavit was filed by the workman on 18.11.05 wherein it was stated that the documents which were required by the workman have not been produced. On 12.12.05, it was submitted on behalf on the non-applicant that documents which were available with the departments have been produced & an affidavit of Sh. Ramkaran Meena was filed in support of the reply. It further reveals that an application on behalf of the workman was moved on 31.5.06 for taking documents enclosed with the application on the record. Since, the non-applicant did not object, the said documents were taken on record *vide* order dated 11.11.10.

Point No. 1

7. To attract the provision of Section 25-F of I.D.Act one of the conditions required is that the workman is employed in any industry for a continuous period which would not be less than one year.

8. The expression "continuous period" occur in Section 25-F has been defined in Section 25-B of the I.D.Act. Under sub-section (1) of the Section 25-B, if a workman has put in uninterrupted service of establishment including the service which may interrupted on account of sickness,

authorize leave, accident, a strike which is not illegal, a lock out or secession of work that is not due to any fault on the part of the workman shall be said to be continuous service for one year *i.e.* 12 months in respect of number of days he has actually worked with interrupted service permissible under sub-section (1) of section 25-B.

9. Sub-Section 2 of section 25-B of the I.D. Act says that even if a workman has not been in continuous service for a period of one year as envisaged under sub-section (1) of 25-B of I.D. Act, he shall be deemed to have been in such continuous service for a period of one year if he has actually worked under the employer for 240 days in preceding period of twelve months from the date of his termination. The said sub-section provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year.

10. In the background of the legal provisions set forth above, factual scenario in the present case is to be examined.

11. The initial burden was on the workman to prove that he had remained under the employment of the non-applicant as a workman for a continuous period of at least one year as envisaged u/s 25-F of the I.D. Act therefore, his termination without notice or compensation in lieu of notice was in violation of the said section.

12. The workman has stated in his affidavit that he had worked with the non-applicant during period 17.10.87 to 16.3.89. He has further stated the due to accident in June, 1998, he remained under treatment for a period of about five months & had joined his duties on 1.11.88. The workman has stated that including the said period of five months he had worked for more than 240 days.

13. The management witness Sh. Ramkaran Meena has stated that the workman was engaged as casual beldar & he had never worked for 240 days with the non-applicant & during period March, 87 to Feb, 99, the workman had worked for 138 days only. The management witness Sh. Nanuram Meena has stated that during period of 17 months the workman has worked for 195 days only.

14. As per version of the workman his services were terminated by the non-applicant on 17.3.89, therefore, burden was upon the workman to prove that he had worked for at least 240 days during period of preceding 12 months from the said date of termination. In this regard, the period from 17.3.88 to 16.3.89 only is relevant.

15. As per pleadings in the reply & statements of the management witnesses the actual working days of the workman during relevant period of preceding 12 months from the date of alleged termination *i.e.* 17.3.89 are as below:—

Year	Working days as reply of the non-applicant	Working days as per statement of MW1 Sh. Ramkaran	Working days as per statement of MW2 Sh. Nanuram
March, 88	22	Nil	22
April, 88	24	Nil	24
May, 88	20	Nil	20
June, 88	Nil	24	Nil
July, 88	Nil	13	Nil
Aug, 88	Nil	Nil	Nil
Sep, 88	Nil	Nil	Nil
Oct, 88	Nil	Nil	Nil
Nov. 88	26	Nil	26
Dec, 88	4	Nil	4
Jan, 89	0	Nil	Nil
Feb, 89	0	14	Nil
Total	96	51	96

16. The Ld. Representative on behalf of the workman contends that there is inconsistency as regards actual working days stated by the management witnesses Sh. Ramkaran Meena & Sh. Nanuram Meena. He further contends that if working days shown by both the witnesses are taken into account, it is established that the workman had worked for more than 240 days.

17. The workman in his affidavit has deposed that he had worked continuously during period 17.10.87 to 17.3.89 & in support of his statement he has produced documents Ex-w-1 to w-29. Ex-w-1 is permit to enter protected place for the period 17.10.87 to 31.12.87 & the period has been extended up to 31.3.88. Ex-w-2 is a note sheet of approval for appointment of daily wagers which reveals that approval to engage the workman as security guard during 16.5.88 to 31.5.88 was accorded. Ex-w-3, w-4 & w-5 are the wages statements of daily wagers which reveals that during period 1.1.88 to 23.1.88, 1.3.88 to 31.3.88 & 1.4.88 to 30.4.88 the total working days of the workman were 19,22,24 days respectively. Ex-w-6 to Ex-w-14 are pertaining to wages & other expenditure for the period Oct, 87 to Dec, 88. Thus, the only documents Ex-w-2, w-4, w-5 & Ex-w-11 to Ex-w-14 are relevant for the period under consideration *i.e.* 17.3.88 to 17.3.89. According to Ex--w-11, w-12, w-13 & w-14 the actual working days of the workman in the month of March 88, April 88, Nov. 88 & Dec. 88 were 19 days, 24 days, 26 days & 20 days respectively.

18. Documents Ex-w-15 to Ex-w-29 are photocopies of the alleged attendance register for the period Sep., 87 to March, 88. Except the document pertaining to March, 88 Ex-w-27 & 28, the other documents are not pertaining to relevant period *i.e.* 17.3.88 to 16.3.89. As per copy of the

attendance register for the month of March, 88 the total working days of the workman were 20 days only.

19. Thus, on the basis of above documents produced by the workman it is not established that he had worked uninterruptedly for one year as envisaged under section 25-B(1) of the I.D. Act or had worked for at least 240 days during preceding 12 months from the date of alleged termination.

20. The management has produced the copies of muster rolls of casual labour engaged on daily wages which reveals that above muster rolls are pertaining to period 1.11.88 to 29.2.88 only. Thus, these documents are also not relevant for period under consideration *i.e.* 17.3.88 to 16.3.89.

21. Upon perusal of the documents pertaining to payment of wages & other expenditures during period April, 87 to March, 89 produced by the management, it reveals that during preceding 12 months from the date of termination the actual working days of the workman in the months of March, 88, April, 88, May 88, Nov. 88 & Dec. 88 were 22 days, 24 days, 25 days, 26 days & 20 days respectively. According to above record, the workman did not work during period June 88 to Oct. 88.

22. As per averments in reply to the claim statement & statement of the management witness Sh. Nanuram, MW2, actual working days of the workman in May, 88 & Dec., 88 were 20 days & 4 days respectively whereas as per documents brought on record by the management working days in the above months were 25 days & 20 days respectively. According to Sh. Nanuram, MW2 the workman did not work during the month of June, 88 & July, 88 but as per the statement of Sh. Ramkaran MW1, the working days of the workman were 24 days & 13 days respectively.

23. The workman has deposed in para 3 of his affidavit as under:—

यह है कि मैंने नियोजक के यहां पर दिनांक 17.10.87 से लेकर दिनांक 17.3.89 तक लगातार काम किया है तथा इस दौरान जून 1988 में कार्य पर आते समय में दुर्घटनाग्रस्त होने के कारण लगभग 5 माह मेरे इलाज रहा और पुनः 1.11.88 को ड्यूटी पर उपस्थित हुआ एवं इस प्रकार इलाज की अवधि को मिलाकर मैंने नियोजक के यहां 240 दिनों से काफी अधिक समय तक लगातार काम कर लिया है। इस दुर्घटना की सूचना मैंने मेरे नियोजक को प्रेषित कर दी थी।

24. Thus, the workman has also admitted this fact that he did not work during period June, 88 to Oct., 88. In view of the admitted facts by the workman, the statement of management witness Sh. Ramkaran MW1 regarding working days in the month of June, 88 & July 88 seems to be incorrect. Further, his statement does not find any support from documents brought on record.

25. Admittedly, during period of preceding 12 months from the alleged date of termination, the workman had not worked for five months *i.e.* June, 88 to Oct., 88 & had worked during remaining seven months only *i.e.* 17.3.88 to May, 88 & Nov., 88 to 16.3.89. Even if, it is presumed that he had worked on all the days in above remaining seven months on reckoning the total number of working days in above period, they come to 211 days only. The contention of the workman that the period of five months during which he remained under treatment is to be included while reckoning the total number of working days during period of preceding 12 months from the date of termination is not tenable. It is evident from the admitted facts by the workman in his affidavit that he had not worked for at least 240 days during relevant period of preceding 12 months from the date of termination.

26. Apart that, even on taking into account all the working days which have been shown in the documents produced by both the sides & days stated by the management witnesses for relevant period of preceding 12 months from the date of termination, it is not established that workman had worked during relevant period for at least 240 days.

27. Since, the workman has failed to establish that he had worked for at least 240 days during preceding 12 months from the date of termination, provisions of section 25-F of the I.D. Act are not attracted, accordingly, this point is decided against the workman.

Point No. II

28. The workman has stated in his claim statement that at the time of termination his services juniors to him were retained in the job but no such names has neither been disclosed by him in his claim statement nor in his affidavit. He has not produced any documentary evidence in support of his statement in this regard, therefore, neither he could be able to adduce the sufficient evidence on this point to corroborate his testimony nor his own testimony is definite on this point as such he has failed to discharge to the onus of this point. which is decided against him.

Point No. III

29. The workman nowhere narrated in his claim statement the names of the persons who were given recruitment after termination of service of the workman. However, in his affidavit at para 10, he has stated that after his termination Sh. Mahendra & Sh. Balkishan were given appointment by the non-applicant. Except his own statement, nothing has been brought on record to substantiate his statement in this regard. Further, there is no suggestion in the cross examination of the management witnesses in this regard. As such, there is no reliable evidence on this point & in absence thereof, it is decided against the workman.

Point No. IV

30. In Award passed by this Tribunal, on 27.5.2011 in I.D. Case No. 56/2004, the copy of which is on the record the question under consideration was whether All India Radio is an 'industry' or not. Relying on the decision rendered by Hon'ble Apex Court in All India Radio & Santosh Kr. & others (civil appeal No. 2135/93 & 775-776/1998) wherein Hon'ble Court has laid down that All India Radio & Doordarshan are 'industry' within the meaning of the said term as defined by the section 2-J of the I.D. Act, the point under consideration has been decided against the non-applicant Department. Accordingly, this point is also decided against the non-applicant.

Point No. V

31. Since, the workman has failed to prove any violation of the provisions of section 25-F, 25-G & 25-H of the I.D. Act by the non-applicant, he is not entitled to any relief.

32. In the result, the reference is answered in negative against the workman in view of the findings on point No. I to III. Resultantly, the workman is not entitled for any relief. The reference under adjudication is answered accordingly.

33. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2013

का०आ० 9.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजय बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर श्रम न्यायालय के पंचाट (11/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/12/2013 को प्राप्त हुआ था।

[सं एल- 12012/117/2007-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 17th December, 2013

S.O. 9.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2008) of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workmen, received by the Central Government on 17/12/2013.

[No. L-12012/117/2007-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 4th October, 2013

PRESENT : Shri S.N. Navalgund, Presiding Officer

C.R. No. 11/2008

I Party

Shri G.B. Shankar,
C/o Nirmala Bai, Shahnager,
Limbewadi Free Colony, No. 1,
Solapur
Maharashtra

II Party

The Chairman,
Vijaya Bank,
Head Office, No. 25,
M.G. Road,
Bangalore-560 001

APPEARANCES:

I Party : Self

II Party : Shri B.C. Prabhakar, Advocate

AWARD

1. The Central Government *vide* order No. L-12012/117/2007-IR(B-II) dated 14.02.2008 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the action of management of Vijaya Bank, Bangalore in removal from service in respect of Shri G.B. Shankar is justified? If not, to what relief the workman is entitled to?"

2. Shri G.B. Shankar (hereinafter referred as I Party workman) who was appointed as Peon in the II Party Bank while serving at its Gangavathi Branch by Order dated 19.07.1999 suffered an order of punishment of Removal from the Service of the Bank with Superannuation Benefits as would be due otherwise at that stage and without disqualification from future employment for unauthorisedly remaining absent for a period of 24 days on two occasions between 07.04.1997 and 04.06.1997 and from 29.06.1997 onwards after holding the Domestic Enquiry had raised this dispute.

3. After receiving the claim statement by the I Party and counter statement by the II Party having regard to certain allegations made in the claim statement touching the fairness of Domestic Enquiry while framing a Preliminary Issue as to —

"Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?"

and was posted for Evidence of II Party on the said

Preliminary Issue. On 17.03.2011 one Manjunath claims to be the Son of I Party workman appeared and filed a Memo to the effect that I Party workman being dead while producing the copy of the death extract made a submission that he would continue the proceedings and he was advised to file an application to bring him on record with necessary documents but later inspite of affording several opportunities he never turned up and on 19.10.2011 the counsel for the II Party filed an application the LR's of the deceased workman who expired on 11.01.2011 inspite of providing sufficient time since failed to come on record and proceed in the matter it may be disposed off as Abated. On that memo observing that CPC provisions cannot be strictly made applicable to such dispute the II Party has to substantiate the impugned action time was given to the II Party to lead evidence. Then on 24.05.2012 the learned advocate appearing for the II Party while filing the Memo the proceedings sheets of the enquiry being misplaced and could not be traced he would lead evidence on merits to establish the charges taken time to lead the evidence on merits and on 31.07.2012 while filing the affidavit of Sh. Santhosh Sen, Branch Manager, Gangavathi Branch examined him on oath as MW 1 and got exhibited Ex M-1 to Ex M-25, thereafter, with an intention that the LR's of the deceased workman may come and take action to come on record his cross-examination was deferred but as nobody turned up and came on record he came to be discharged.

4. Since it has come on record the I Party workman expired on 11.01.2011 and his son Manjunath who once appeared expressing his intention to proceed with the matter later inspite of providing number of opportunities did not come forward, I feel there is no need to go into the merits of the charges of unauthorised absence levelled against the deceased I Party workman and the reference has to be rejected as Abated. In the result, I pass the following.

ORDER

The Reference is rejected as abated due to the death of the I Party workman and failure of his LR's to come on record and to proceed in the matter.

(Dictated to U D C, transcribed by him, corrected and signed by me on 4th October 2013)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 10.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर श्रम न्यायालय के पंचाट (21/2009) प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं एल- 12011/28/2009-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 10.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2009) of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 18/12/2013.

[No. L-12011/28/2009-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 3rd October, 2013

Present: Shri S.N. Navalgund, Presiding Officer

C.R. No. 21/2009

I Party

II Party

Shri Namdev J Itapi,
General Secretary, Dharwad
District Bank Employees
Association, No. 9, Corporation
Building, Broadway,
Hubli-580020

The Chairman,
Syndicate Bank,
Head Office,
Manipal

APPEARANCES:

I Party : Shri M. Rama Rao, Advocate

II Party : Shri Ramesh Upadhyaya, Advocate

AWARD

1. The Central Government *vide* order No. L-12011/28/2009-IR (B-II) dated 12.05.2009 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the action of the Syndicate Bank Management in refusing to take into account the temporary service of Shri Namdev J Itapi API, Substaff for the purpose of calculation of Annual Increments, Pension Benefits, Gratuity, etc. are justified? What relief the workman is entitled to?"

2. Later by issuing corrigendum dated 24.06.2009 the address against Sl. No. 2 and 3 which were reading as The Assistant General Manager, Canara Bank, HRM Section, Circle Office, IMA Building, Baillapanavarannagar, Hubli-580029 and The Assistant Secretary, Canara Bank Staff

Union, Santhrupthi, Near Adarsha High School, Karmar, Presenting Officer Padil, Mangalore-575007 respectively have been corrected to read as the Chairman, Syndicate Bank, Head Office, Manipal and Sri Namdev J Itapi, General Secretary, Dharwad District Bank Employees Association, No. 9, Corporation Building, Broadway, Hubli-580020.

3. After receipt of the reference while registering it in C R 21/2009 when notices were issued to both the sides the I Party entered his appearance through M Rama Rao, General Secretary, Dharwad District Bank Employees Association and the II Party management through Ramesh Upadhayay, advocate.

4. The I Party who filed his claim statement on 20.05.2010 asserted that he joined the services of II Party in 1982 as Temporary Sub-staff and he who worked for 20 days in 1982, 24 days in 1983, 123 days in 1984, 55 days in 1985, 141 days in 1986, 1 day in 1987, 24 days in 1988, 9 days in 1989, 78 days in 1990, 87 days in 1991, 1 day in 1992, 2 days in 1993, 306 days in 1998, 90 days in 1999, 100 days in 2000 totalling to 1061 days made permanent in the service on 11.09.2001 and as per clause 20.8 of the BPS the temporary services should have been taken into account for part of his probationary period granting annual increments etc. and that he learnt that 240 days working is taken as one year service as such his temporary service should have been taken as 4.42 years of service for the purpose of calculation of annual increments, pension benefits, gratuity etc. and as the same was not taken into account for the purpose of calculation of annual increments, pension benefits, gratuity etc. when he requested for the payment of pension he was informed by K. Chandaragi, Branch Manager through his letter dated 14.07.2008 he having not completed 10 years of service is not entitle for pension. He has further asserted that he since came to be retired from services of the II Party Bank on 31.05.2008, if his temporary service for 18 years taken into account he has completed more than 10 years of continuous service, therefore, he sent a representation to the II Party bank on 25.07.2008 requesting them to consider his temporary service of 1061 days equivalent to 4.42 years of service for the purpose of calculation of annual increments, pension benefits and gratuity etc., and for releasing his arrears of annual increments, arrears of pension, arrears of gratuity etc., and as the II Party bank did not consider his representation for a considerable time, he raised dispute before ALC(C), Ministry of Labour, Government of India, Hubli with a request to interfere and prevail on II Party bank to consider his request for taking his temporary service into consideration and as the II Party failed to settle the dispute it resulted in this reference. With these assertions he prayed to pass an award declaring the non-consideration of his temporary service for the purpose of calculation of Annual Increments, Pension Benefits, Gratuity etc., is not fair, legal, null and void and to direct the II Party to consider and account the temporary period

of service for the purpose of calculation of Annual Increments, Pension Benefits, Gratuity, etc. with cost of Rs. 15,000.00.

5. The II Party/management opposed the claim of the I Party contending that I Party being the retired employee, he is not covered under the definition of workman under Section 2(s) of ID Act and there exists no relationship of workman and employer the present reference cannot be considered as dispute as defined under Section 2(k) of ID Act. It is further contended as per Para 20.7 of BPS dated 19.10.1996 temporary employee means an employee who has been appointed for a limited period for work which is essentially of a temporary nature or who is employed temporarily as an additional workman in connection with a temporary increase in work of a permanent nature and includes a workman other than a permanent workman who is appointed in a temporary vacancy caused by the absence of a particular permanent employee, and as per Para 20.8 of the same Bi-partite Settlement a temporary employee may also be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceed a period of three months during which the bank shall make arrangement for filling up the vacancy permanently and when such a temporary workman eventually selected for filling up the vacancy the period of such temporary employment be taken into account as a part of probationary period and in the back drop of these paras in the Bi-partite Settlement during the joint meeting held with the representatives of Syndicate Bank Employees Union (recognized majority Union) at Manipal on 14.05.2005 (*vide* circular No. 097/2005/BC) and with reference to the union request in the matter of providing certain service weightage to the temporary employees absorbed already and who had worked continuously in permanent vacancies before regularisation it was informed/clarified that the annual increment date of such temporary employees absorbed in the regular vacancy is being fixed after reckoning the first date of joining in a permanent vacancy and besides this the continuous service rendered from the date of joining as temporary employee against regular vacancy would be reckoned for the purpose of eligibility for gratuity to such of the employees superannuating or ceasing to be in service henceforth. Thus it is contended though there was no provision in the Bi-partite Settlement the bank as a gesture extended the above benefit for temporary/continuous service for regular/permanent vacancy only and accordingly circular No 846/0089/PD:IRD(W)/F53/PAD-1/F-195 dated 24.06.2005 was issued and based on the service particulars of the I Party his date of increment was preponed by two months *i.e.* 01.01.2006 from 01.03.2006 prospectively and 615 days of his temporary service against regular vacancy was reckoned for purpose of eligibility for gratuity at the time of his superannuation. It is further contended since I Party had joined the bank as probationary attender on 11.03.2002 and he was confirmed in the services of the

bank on 11.09.2002 and retired on superannuation on 31.05.2008 his actual service in the bank worked out to six years two months twenty days and while extending him the benefit regarding the date of release of annual increment by refixing his annual increment date to 01.01.2006 instead of 01.03.2006 the difference amount was paid from 2006 onwards and by including the continuous service rendered by him from the date of joining as temporary attender against the regular vacancy 615 days was taken into account for gratuity purpose and thus working out 8 years of service for the purpose of gratuity an amount of Rs. 31542.00 was paid to him. It is further contended the minimum qualifying service for payment of pension under its pension regulations is 10 years whereas his total service including the temporary period of service rendered by him against permanent vacancy is only 8 years he is not entitle for pension. It is further contended he was initially engaged temporarily on casual basis and not against any regular/permanent vacancy and his temporary service was engaged for the first time against a permanent/regular vacancy on 30.01.1991 which date has been taken into account for reckoning the annual increment date. Thus, it is contended that as per circular No. 846/0089/PD:IRD(W)/F53/PAD-1/F-195 he was entitle for reckoning of 615 days of his temporary service against regular/permanent vacancy for purpose of eligibility of gratuity at the time of his superannuation same has been provided to him as such he is not entitle for any of the claim now put forward by him.

6. After completion of the pleadings by raising a Preliminary issue as to whether there exists relationship of employee and employer between I Party and II Party matter and was posted for Evidence of I Party, the Authorised Representative of the I Party on 27.01.2011 while filling the affidavit of I Party examining him on oath as WW-1 got exhibited Attendance Certificate for having worked with the II Party dated 26.02.1988; Attendance Certificate for the period 01.01.1988 to 31.12.1988 dated 19.01.1989; details of I Party having worked in different branches; Bio-data of the I Party dated 30.01.1991; Certificate issued by the Branch manager, Satti Branch dated 21.07.2008 to the I Party; Relieving Letter of the I Party dated 31.05.2008; letter addressed by the Branch Manager of the II Party to the I Party dated 14.07.2008; salary certificate of the I Party dated 30.04.2003; copy of the letter addressed to the Chairman, Syndicate Bank dated 25.07.2008 by the I Party requesting for grant of pension and other benefits; copy of the letter addressed to the Assistant Labour Commissioner (C), Hubli by the I Party dated 18.09.2008 for intervention in setting the dispute; copy of the notice issued by the ALC(C), Hubli to The Chairman and Managing Director, Syndicate Bank, Manipal dated 17.10.2008; copy of the notice issued by the ALC(C), Hubli to The Chairman and Managing Director, Syndicate Bank, Manipal dated 10.11.2008; copy of the notice dated 10.11.2008 issued by the ALC(C), Hubli to the General Secretary, Dharwad District Bank Employees Association,

Hubli; objection statement of the Syndicate Bank addressed to ALC(C), Hubli dated 18.12.2008; Report of conciliation of failure dated 09.01.2008 and unsigned letter of the General Secretary of the I Party Union addressed to the I Party dated 01.04.2010 authorising him to file claim statement as Ex W-1 to Ex W-16 respectively and after his cross-examination by the II Party counsel he examined Sh. M Anantha Krishna as WW-2 who deposed that he is the President of Dharwad District Bank Employees Association since 2007 and that this dispute was raised by their association and closed his side. *Interalia*, the learned advocate appearing for the II Party examined Sh. K S Surya Prakash, Chief Manager of the II Party bank as MW-1. With the above evidence, the authorised representative of the I Party and the learned advocate appearing for the II Party filed their written arguments on the merits. When it was noticed that the evidence was asked to be adduced only on the Preliminary issue as to the relationship of employee and employer between the I Party and the II Party and same was brought to the notice of the authorised representative of the I Party and the counsel for the II Party, the learned counsel for the II Party when made a submission that the Preliminary Issue may be answered along with all the issues arising for disposal of the reference and he may be permitted to put few more questions to I Party/WW 1 by way of cross-examination and the authorised representative of the I Party submitting that he has no objection for further cross-examination of WW-1 the counsel for II Party further cross-examined WW-1 and as the authorised representative of the I Party and counsel for II Party submitted that they have no further evidence and they having addressed arguments on merits as well Preliminary Issue as well as the other issues arising for disposal may be answered by way of Award.

7. On the pleadings, evidence adduced by both the sides and the arguments put forward for both the sides the points that arises for my consideration in disposal of this reference are:

Point No. 1: Whether there existed relationship of Employee and Employer between the I Party and the II Party when this dispute was raised?

Point No. 2: If so, whether the reference schedule constitutes an ID as defined under Section 2(k) of ID Act?

Point No. 3: If so, whether I Party is entitle to take into account the temporary service he rendered for the purpose of calculation of annual increments, pension benefits, gratuity etc.?

Point No. 4: What Order?

8. On appreciation of the pleadings, oral and documentary evidence brought on record by both the sides in the light of the arguments put forward my finding on points No. 1 to 3 are in the Negative No. 4 as per final order for the following:

REASONS

9. **Point No. 1:** The first and foremost contention of the II Party/Management is that the I Party who retired on superannuation on 31.05.2008 having raised this dispute thereafter he is not covered under the definition of workman covered under Section 2(s) of ID Act as there existed no relationship of workman and employer between them the present reference cannot be considered as ID as defined under Section 2 (k) of ID Act. There is no dispute the I Party who intermittently served as temporary sub-staff between 1982-2000 was absorbed in the service of the II Party bank as probationary attender on 11.03.2002 and was confirmed in the services on 11.09.2002 and retired on superannuation on 31.05.2008 and thereafter he raised this dispute. This dispute came to be raised after the I Party retired on superannuation is unequivocally admitted by him in his cross-examination. Therefore, the point now I have to consider is whether there existed the relationship of Employee and Employer between the I Party workman and the II Party management after his retirement on 31.05.2008. As far as this contention is concerned the learned advocate appearing for the II Party in support of this contention relied upon the decisions reported in (2003) 5 Supreme Court Cases 163 A K Bindal and Another Vs. Union of India & others; 2006 LLR SC 335 CEAT LTD., Vs. Anand Abasaheb Hawaldar & others; 1999 II LLJ Page 851 Kerala High Court (DB) Everestee Vs. District Labour Court whereas the authorised representative of the I Party failed to give any appropriate reply to this contention and the decisions relied upon. In the first decision relied upon by the learned advocate appearing for the II Party reported in (2003) 5 SSC 163 it is held that once employee opt to retire under VRS and accept the benefits there under their rights as employee comes to an end and there after they cannot against assert their rights and re-agitate their claim for pay revision for preretirement period nor they can contend that they opt for VRS under compulsion. Again in the second decision relied upon by him reported in 2006 LLR SC 335 it is held under clause V of the Section 3 of the Act the expression "employee" only covers those who are workman under clause (s) of the section 10 of Industrial Dispute Act which relates to those who are existing employees. Again in the last decision relied upon by him reported in 1999 II LLJ Page 851 it is held an employee who tendered resignation pursuant to VRS and same came to be accepted by the management he cannot be treated as a workman under Section 2(s) of the Industrial Dispute Act and that it includes only persons who are presently employed or who have been dismissed, discharged or retrenched from the employers. In the present case the I Party workman being not dismissed, discharged or retrenched from the service his claim after superannuation being that he was entitle to take into account his temporary service put in prior to absorbing him as permanent employee for the purpose of Annual Increments, Pension Benefits, Gratuity he cannot be as on the date of raising the dispute can be treated as

workman or there existed relationship of employee and employer between himself and the II Party/management as defined under Section 2(s) of ID Act. Accordingly, I have arrived at conclusion of answering this point in the Negative.

10. **Point No. 2:** Infact in view of my finding on Point No. 1 this point does not survive for consideration at all. However, assuming for the sake of argument the point No. 1 is answered in the Affirmative let me now proceed to consider this aspect of the contention urged by learned advocate appearing for the II Party. No doubt in the counter statement filed by the II Party as urged by Authorised Representative of I Party there is no specific contention the present dispute individually raised by its former workman is not an Industrial Dispute as defined under Section 2(k) of ID Act but this contention being a question of law on the admitted facts this has to be considered. As defined under Section 2(k) of the ID Act any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or the conditions of the labour of any person is an Industrial Dispute. To enable an individual former workman under Section 2(A) of the ID Act a provision is made where any employer discharges, dismisses, retrenches or otherwise terminates the services of individual workman any dispute or difference between that workman and employer connected with or arriving out of such discharge, dismissal or retrenchment to be treated as Industrial Dispute notwithstanding that no other workman nor any union of workman is a Party to the dispute. Thus, it is clear the purport behind enacting section 2(A) is to cover those cases in which the dispute of an individual workman relating to discharge, dismissal, termination from service has not been sponsored by any other workman or any union. Since the language as used under Section 2(A) very clearly states that in order to make a dispute an Industrial Dispute that must be sponsored by substantial number of workman except in cases of discharge, retrenchment and termination of workman which is by itself an Industrial Dispute. Though the I Party categorically stated in his claim statement that when II Party bank did not respond to his representation dated 25.07.2008 for a considerable period of time he only raised a dispute before the ALC(C), Hubli with a request to intervene in the dispute and prevail on the II Party Bank Management by examining Sh. Anantha Krishna as WW-2 who claims to be the President of Dharwad District Bank Employees Association since 2007 an attempt was made to show that the present dispute was raised by the Dharwad District Bank Employees Association for which there is no record to substantiate. The Authorised Representative of the I Party while referring to the notices issued by the ALC(C), Hubli dated 17.10.2008, 10.11.2008 urged that copy of these notices being marked to him

(Sh. M. Rama Rao) as General Secretary, Dharwad District Bank Employees Association, No. 9, Corporation Building, Broadway, Hubli urged that if the dispute was not sponsored by the Dharwad District Bank Employees Association the copy of these notices would not have been marked to him and thereby tried to make believe that this dispute was raised by Dharwad District Bank Employees Association. But his argument falls to the ground on the very mentioning of subject in these letters as "Dispute raised by Sh. Namdev J. Itapi against the management of Syndicate Bank" that the dispute was individually raised by Sh. Namdev J. Itapi and Sh. M. Rama Rao, General Secretary, Dharwad District Bank Employees Association must have represented him as Authorised Representative as he has done in the present reference. Therefore, I am of the considered view that the present dispute raised by the former workman of the II Party bank after his superannuation in his individual capacity not relating to dismissal, discharge, retrenchment or termination cannot be an Industrial Dispute as defined under Section 2(k) of ID Act. Accordingly, I have arrived at conclusion of answering this point in the Negative.

11. Point No. 3: Infact, in view of my finding on Point No. 1 and 2 this point does not survive for consideration. However assuming for a moment the Point No. 1 and 2 have been answered in the Affirmative let me now proceed to consider this aspect relating to the claim of the I Party. Of course, there is no much dispute the I Party having worked or the II Party for 20 days in 1982, 24 days in 1983, 123 days in 1984, 55 days in 1985, 141 days in 1986, 1 day in 1987, 24 days in 1988, 9 days in 1989, 78 days in 1990, 87 days in 1991, 1 day in 1992, 2 days in 1993, 306 days in 1998, 90 days in 1999, 100 days in 2000 totalling to 1061 days before he was absorbed in permanent service as probationary attender on 11.03.2002 and being confirmed on 11.09.2002 but it is the specific case of the II Party that as per Para 20.8 of the Bi-partite Settlement a Temporary Employee may also be appointed to fill a permanent vacancy provided that such temporary employment shall not exceed a period of three months during which the bank shall make arrangement for filling up the vacancy and if such a temporary workman is selected for filling up the vacancy the period of such temporary employment will be taken into account as a part of probationary period and then on the request of the recognized majority union *i.e.*, Syndicate Bank Employees Union in the matter of providing certain service weightage to the temporary employees absorbed already and who had worked continuously in permanent vacancies before regularisation it was agreed that "the annual increment date of such temporary employees absorbed in regular vacancy is being fixed after reckoning the first date of joining in a permanent vacancy; And besides this, the continuous service rendered from the date of their joining as temporary employee against a regular vacancy would be reckoned for the purpose of eligibility

for gratuity; it was further informed that this (the above) will be applicable to such of them superannuating or ceasing to be in service henceforth" by issuing circular No. 846/0089/PD:IRD(W)/F. 53/PAD-1/F-195 dated 24.06.2005 and as the temporary service of the I Party against the regular vacancy was only from 30.01.1991 onwards for a period of 615 days for the purpose of payment of gratuity after his superannuation the same was reckoned and added to his actual service of six years two months and twenty days to make him eligible for gratuity for a period of eight years and accordingly he has been paid gratuity amount for a period of eight years amount to Rs. 31542.00. This contention taken in the counter statement is not denied by filling rejoinder by the I Party or he being paid gratuity calculating service of eight years amounting to Rs. 31542.00 is also not denied in the evidence given by him thereby this contention of the II Party that they have added his temporary service against the regular vacancy calculated @ 615 days is taken into consideration by adding it to his actual service and accordingly he has been paid gratuity cannot be disbelieved. Under clause 20.8 of the Bi-partite Settlement on which the heavy reliance is placed by the Authorised Representative of the I Party to substantiate his claim only speaks that a temporary workman who is appointed to fill a permanent vacancy and if such a temporary workman is eventually selected for filling up the vacancy the period of such temporary employment be taken into account as part of his probationary period but do not support his claim that the temporary period of service has to be treated as period of regular service which is the actual claim *i.e.* tried to be made out in this reference. The I Party workman in his cross-examination while admitting the suggestion that the management has given what all he was entitle to volunteers and states that he request to provide him pension thereby his claim is to take all the 1061 days of his temporary service into consideration and to add it to his actual service of six years two months and twenty days and to make it more than 10 years to qualify him for pension which is the required period. Since as already discussed by me above there is no scope under clause 20.8 of Bi-partite Settlement for the same and his temporary service against the regular vacancy of 615 days being added to his actual service for the purpose of computing the gratuity his claim for annual increment, pension benefits is not justified as such the action of the Syndicate Bank refusing his representation to take into account his Annual Increments and Pension Benefit is justified. Accordingly, I have arrived at conclusion of answering this point in the negative.

12. Point No. 4: In view of my finding on Point Nos. 1 to 3 the reference is liable for rejection and I Party is not entitle for any relief. In the result, I pass the following.

ORDER

The Reference is rejected holding that the action of

the management of Syndicate Bank in refusing to take into account the temporary service of Shri Namdev J. Itapi, Sub-staff for the purpose of calculation of Annual Increments, Pension Benefits, Gratuity, etc. is justified and that I Party is not entitle for any relief.

(Dictated to U.D.C. transcribed by him corrected and signed by me on 3rd October 2013)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 11.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म्युनिसिपल कारपोरेशन ऑफ दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या-190/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-12-2013 को प्राप्त हुआ था।

[सं० एल- 42011/108/2012-आईआर(डी०यू०)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 11.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 190/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the management of Municipal Corporation of Delhi, and their workmen, received by the Central Government on 17/12/2013.

[No. L-42011/108/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DELHI

I.D. No. 190/2012

Sh. Satender Kumar
S/o Sh. Harpal Singh,
Through Delhi Udyan Karamchari Union,
B-5, Ram Gali, North Ghonda,
Delhi-110053Workman

Versus

The Commissioner,
Municipal Corporation of Delhi
Town Hall, Chandni Chowk,
Delhi-110006.Management

AWARD

One Shri Jai Pal Singh, S/o Shri Mahender Singh was appointed as Mali by Delhi Development Authority on

28.12.1979. His services were transferred to Municipal Corporation of Delhi (in short the Corporation) on 06.04.1993. He was posted in Horticulture Department, Shahdara North Zone, Delhi. He breathed his last on 27.12.2007. Gratuity and pensionary benefits were granted to Smt. Chando Devi, mother of the deceased. Since Shri Jai Pal had nominated Smt. Kamlesh, his sister in law, for benefits such as leave encashment, DLI, GPF and GIS, hence those benefits were released in favour of the nominee. Shri Satender Kumar son of Shri Har Pal Singh, younger brother of the deceased, moved an application seeking compassionate appointment with the Corporation. His demand was not conceded to. He approached the Delhi Udyan Karamchari Sangharsh Union (Regd.) (in short the union) for redressal of his grievance. The Union raised a dispute before the Conciliation Officer. Since the Corporation contested the claim, hence conciliation proceedings ended into a failure. On consideration of failure report submitted by the Conciliation Officer, the dispute was referred to this Tribunal for adjudication by the appropriate Government, *vide* order No. L-42011/108/2012-IR(DU), New Delhi dated 07.12.2012, with following terms:

"Whether the workman Shri Satender Singh, S/o Shri Har Pal Singh is entitled to employment on compassionate grounds with Municipal Corporation of Delhi and if so, what relief is he entitled to?"

2. Claim statement was filed on behalf of Shri Satender Singh, pleading therein that Shri Jai Pal Singh was serving on the post of mali in Horticulture Department of the Corporation since 28.12.1979. He was suffering from cancer. He met his death on 27.12.2007. Shri Jai Pal Singh was unmarried. He nominated Ms. Kamlesh Devi, Devender and Shri Ravinder for his provident and other benefits. As such, Smt. Kamlesh Devi received all benefits after death of Shri Jai Pal Singh.

3. He applied for appointment on compassionate grounds, which application was not conceded to by the Corporation. Action of the Corporation amounts to violation of provision of Articles 14, 16 and 29 of the Constitution of India. The Corporation has not formed any policy for compassionate appointment. Non appointment of the claimant on compassionate grounds amounts to sheer exploitation of labour. He claims that the Corporation may be commanded to appoint him in its services on compassionate grounds.

4. Claim was demurred by the Corporation pleading therein that the claimant is not covered within the definition of 'dependent family member' and as such, is not entitled to compassionate appointment. Appointment on compassionate grounds is given to one of the family members of the deceased on whom the family was dependent for their subtenance. Since the claimant was not a dependent family member of the deceased Jai Pal Singh, he has no claim for compassionate appointment.

5. Smt. Chando Devi, being the only legal heir of the deceased Shri Jai Pal Singh, was granted gratuity and pensionary benefits. For other benefits, such as leave encashment, GPF and GIS etc. Shri Jai Pal Singh had nominated Ms. Kamlesh Devi, his sister in law. Therefore, other benefits were released in favour of Smt. Kamlesh Devi. Claimant had projected wrong claim since he was not dependent on the deceased Shri Jai Pal Singh. His claim is liable to be dismissed, pleads the Corporation.

6. On perusal of pleadings, following issues were settled:

- (1) Whether the claimant was one of the dependent family members of the deceased, Shri Jai Pal Singh?
- (2) As in terms of reference.

7. Shri Satender Kumar has examined himself in support of his claim. He opted not to examine any other witness. Corporation also opted not to examine any witness in support of its defence.

8. Arguments were heard at the bar. Shri R.M. Sharma, authorized representative, advanced arguments on behalf of the claimant. Shri Umesh Gupta, authorized representative presented facts on behalf of the Corporation. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:—

Issue No. 1

9. Out of facts pleaded by the parties and those deposed by Shri Satender in his testimony, it emerged that Shri Jai Pal Singh was serving on the post of mali in Horticulture Department at Shahdara North Zone of the Corporation. Shri Jai Pal Singh died on 27.12.2007. At the time of his death, Shri Jai Pal Singh was survived by his mother, namely Smt. Chando Devi. It has emerged over the record that Shri Jai Pal Singh, being unmarried, was not survived by a spouse or any children. Resultantly it is an established fact that at the time of his death, Shri Jai Pal Singh was survived by his old aged mother.

10. Shri Satender deposed that Smt. Kamlesh Devi, his mother, was the nominee of Shri Jai Pal Singh. In his testimony, he presents that benefits such as for leave encashment, GPF and GIS were released by the Corporation in favour of Smt. Kamlesh Devi. Facts in this regard are not disputed by the Corporation. It was pleaded in the written statement that benefits towards GPF, leave encashment, GIS etc. were released in favour of Smt. Kamlesh Devi, who was nominated as such by the deceased, Shri Jai Pal Singh. However, gratuity and pensionary benefits were granted in favour of Smt. Chando Devi, mother of deceased, Shri Jai Pal Singh. It has not been disputed by the Corporation that certain benefits were released in favour of Smt. Kamlesh Devi, being nominee of the deceased.

11. Shri Gupta argued that Corporation had adopted scheme for compassionate appointment, formulated by Government of India, Shri Sharma could not dispel these facts. Therefore, it would in the fitness of things to consider provisions of scheme of compassionate appointment, formulated by the Government of India. Scheme of compassionate appointment applies to dependent family member—

(A) of a Government servant who—

- (a) dies while in service (including death by suicide), or
- (b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules, 1957, or
- (c) is retired on medical grounds under Rule 38 of the CCS (Pension) Rules, 1972, or

(B) of a member of the Armed Forces who—

- (i) dies during service; or
- (ii) is killed in action; or
- (iii) is medically boarded out and is unfit for civil employment

12. Government servant for the purpose of the scheme means, a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or *ad hoc* or contract or re-employment basis. Dependent family members have been defined under the scheme, which category of persons are detailed below:

" Dependent family members has been advised to mean:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred above, who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be".

13. Question for consideration would be as to whether claimant, who happens to be son of Shri Har Pal Singh, Younger brother of Shri Jai Pal Singh, would fall within the above category of persons, defined as dependent family members. Answers lies in negative. It is not the case of the claimant that he was an adopted son of the deceased. In his testimony, claimant made a candid admission that he does not fall within the definition of dependent family member of the deceased. Therefore, it is crystal clear that as per his own admission, claimant is not a dependent family member of the deceased, Shri Jai Pal Singh Resultantly, issue is answered in favour of the Corporation and against the claimant.

Issue No. 2

14. For an answer to the issues referred by the appropriate Government in the reference order, it would be expedient to take note of the other provisions of the scheme of compassionate appointment. Those provisions of the scheme contemplate that compassionate appointment can be made to Group 'C' or Group 'D' posts against direct recruitment quota. For consideration of application for compassionate appointment family of the Government servant who died in harness or retired on medical grounds should be indigent and deserves immediate assistance for relief from financial destitution and applicant for compassionate appointment should be eligible and suitable for the post in all respects. Compassionate appointments are exempted from observance of:

- (a) Recruitment procedure
- (b) Clearance from the Surplus Cell of the Department of Personnel and Training/Directorate of Employment and Training
- (c) The ban orders on filling of posts issued by the Ministry of Finance (Department of Expenditure).

15. Upper age-limit could be relaxed wherever found to be necessary. The lower age-limit should, however, in no case be relaxed below 18 years of age. Age eligibility is to be determined with reference to the date of application and not the date of appointment. Secretary to the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules. In case of appointment at the lowest level, that is Group 'D' or LDC post, in exceptional circumstances where the condition of the family is very hard, such relaxation will be permitted up to a period of 2 years beyond which no relaxation of educational qualification will be admissible and services of the persons concerned, if still unqualified are liable to be terminated. Where widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirement of possessing the educational qualification prescribed in the relevant rules, provided the duties of the post can be satisfactorily performed by her without possessing such educational qualifications.

16. Appointment on compassionate grounds should be made only on regular basis and that too only, if regular vacancies meant for that purpose are available. Such appointments can be made upto 5% of the vacancies falling under direct recruitment quota in any Group 'C' or 'D' posts. Ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family members of Government servant on casual, daily wage, *ad hoc*, contract basis against regular vacancies. There is no bar in considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments.

17. Application for compassionate appointment can be considered, if it is made belatedly, say moved after 5 years of the death of the Government servant or so. While considering such belated requests, it should however, be kept in view that concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. So such belated requests call for a great deal of circumspection. Request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical grounds of Government servant and not the age of the applicant at the time consideration.

18. The person appointed on compassionate grounds under the scheme should give an undertaking in writing that he/she will maintain properly other family members who were dependent on the Government servant and in case it is provide subsequently that the family members are being neglected or are not being maintained properly, his appointment may be terminated forthwith. While considering request for appointment on compassionate grounds, balanced and objective assessment of financial condition of the family is to be made taking into account its assets and liabilities (including benefits received under various welfare schemes) and all other relevant factors, such as, presence of an earning members, size of the family, age of the children and the essential needs of the family. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crises and to relieve the family from financial destitution and to help it get over the emergency.

19. The Apex Court in *G. Anantha Rajeshwara Rao* [1994 (1) SCC 192] had considered the scheme of compassionate appointments formulated by the Government of India and ruled that appointment on grounds of descent clearly violates article 16(2) of the Constitution, but if the appointment is confined to the son or daughter or widow of the Government servant who die in harness, who need immediate appointment on the ground of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of economies from the bread winner to relieve to distress of the members of the family, it is unexceptionable. Again in *Umesh Kumar Nagpal* [JT 1994 (3) SC 5325] the Apex Court considered the scheme and laid down following principles in that regards:

- (1) Only dependents of an employee dying in harness, leaving his family in penury and without any source of livelihood can be appointed on compassionate grounds.
- (2) The posts in group "C" and "D" are the lowest posts

in non managerial and managerial categories and hence those posts alone can be offered on compassionate grounds.

- (3) The whole object of granting compassionate appointments is to enable the family to tide over the crisis and to relieve the family of the deceased from destitution and to help it get over the emergency.
- (4) Offering compassionate appointments as a matter of course, irrespective of financial condition of the family of the deceased or medically retired government servant, is legally impermissible.
- (5) Neither the qualification of the applicant (dependent family member) nor the post held by the deceased or medically retired government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to accept it. The post is not to be offered to cater his status but to see family through the economic calamity.
- (6) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in the future, and
- (7) Compassionate appointment cannot be offered by an individual functionary or on *ad hoc* basis.

20. In Asha Ram Chander Ambedker and others [Jt 1994 (2) SC 183] the Apex Court ruled that the High Courts and Administrative Tribunals cannot give directions for appointment of a person on compassionate ground but can merely direct consideration of the claim for such appointment. In Dinesh Kumar [JT 1996 (5) SC 319] and Smt. A Radhika Therumalai [Jt 1996 (9) SC 197] it was announced that appointment on compassionate ground can be made only if a vacancy is available for that purpose. In Rami Devi and others [Jt 1996 (6) SC 646] it was ruled that if the scheme relating to appointment on compassionate ground is accepted to all sort of casual, *ad hoc* employees, including those who are working as apprentice, then the scheme cannot be justified on constitutional grounds.

21. Now, factual matrix of the controversy is to be considered. As concluded above, claimant is not a dependent family member of deceased, Shri Jai Pal Singh. Therefore, he is not entitled to relief of appointment on compassionate grounds on that count only. Even otherwise, claimant had not been able to forge a case that owing to the death of Shri Jai Pal Singh, his survivors were in severe economic distress. The very fact that the family of Shri Har Pal Singh, of which the claimant happens to be a member, has been able to maintain its affairs, well, make his claim unacceptable. No evidence was brought over the record to project that due to death of Shri Jai Pal Singh, state of penury was faced by his survivor. No case could be projected to show that compassionate appointment of

Shri Satender Singh was essential to enable the family to tide over the sudden crisis and relieve it from financial destitution to get over the emergency. Thus, on other standards too, as projected above, claimant had not been able to show a case in his favour. Consequently, it is announced that Shri Satender Singh is not at all entitled for appointment on compassionate grounds with the Corporation. His claim is laible to be dismissed. Dismissing the claim, an award is passed in favour of the Corporation and against the claimant. It be sent to the appropriate Government for publication.

Dated : 26-8-2013

R. K. YADAV, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 12—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रेसिडेंट, भारतीय मजदूर संघ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चूरू, राजस्थान के पंचाट (संदर्भ संख्या 50/2005 को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/1/2005-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 12.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 50/2005) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The President, Bhartiya Mazdoor Sangh, Churu, Rajasthan and their workman, which was received by the Central Government on 18/12/13.

[No. L-40012/1/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

N.K. PUROHIT, Presiding Officer

I.D. No. 50/2005

Reference No. L-40012/1/2005-IR(DU)

The President
Bhartiya Mazdoor Sangh
B-72, Sector-I, Sainik Colony,
Churu Distt. (Raj.)

V/s.

1. The General Manager
Bharat Sanchar Nigam Ltd.
Churu Distt. (Raj.).
2. The Junior Telecom Officer
BSNL, Electrical Sub-Division,
Churu Distt. (Raj.)-331001.

PRESENT

For the applicant Union: Sh. R.C. Jain.
For the non-applicants: Sh. B.L. Ahir.

AWARD

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Bharat Sanchar Nigam Ltd., Churu in terminating the services of claimant Shri Kanta Prasad Sharma, Generator Operator *w.e.f.* 26.2.2002 is legal & justified? If not, what relief the claimant is entitled to and from which date?"

2. The union in its statement of claim has contended that the workman Sh. Kanta Prasad was employed by an oral order as a generator operator in the branch of non-applicant establishment at Sahava, Distt. Churu by the J.E.O. Sh. Suresh Kumar Singhal. The workman had worked there from 15.4.2001 to 26.2.2002. The workman used for bring diesel from Shiv Filling Station & in the receipts his name was also mentioned. It has further been contended that despite the workman had worked for 240 days in a calender year, his services were terminated in violation of Section 25-F of the I.D. Act on 26.2.2002 without any notice, notice pay or compensation. It has been alleged that no seniority list was prepared & while terminating services of the workman, juniors to him were retained in the job in violation of Section 25-G of the I.D. Act. It has also been alleged that in violation of Section 25-H of the I.D. Act., new hands were given recruitment without any offer of re-employment to the workman. Thus, the union has prayed for setting aside the termination order dated 26.2.2002 & reinstatement of the workman with back wages & other consequential benefits.

3. In reply, the claim of the union has been denied. The non-applicant has submitted that contract for operation & maintenance of the generator was given to M/s Devendra Construction Co., Bikaner. The workman was not employed by the non-applicant; therefore, the claim of the union is not maintainable. It has been denied that workman was employed by Sh. Suresh, JEO & before employment any training was imparted to the workman. The non-applicant has also denied that payment of the

salary to the workman was being made by the non-applicant. It has been submitted that merely on the basis of bills of the petrol pump, it cannot be said that workman was an employee of the non-applicant establishment.

4. In rejoinder, it has been denied that workman was an employee of the M/s Devendra Construction Company.

5. In evidence, the union has filed the affidavit of workman Sh. Kanta Prasad. In rebuttal, the non-applicant has filed the counter affidavits of Sh. Suresh Kumar Singhal, Sub-Divisional Eng. (Electric), Sh. Devendra Lohia, Partner M/s. Devendra Construction Company.

6. It is pertinent to mention that an application was submitted on behalf of the union on 28.9.2005 to call for certain documents *i.e.* seniority list, log book & payment receipts. The said application was partially allowed & *vide* order dated 7.3.2006 the non-applicant were called to produce those receipts of the relevant period whereupon the signature of the workman were stated to have been affixed. In pursuance of the said order bills pertaining to diesel purchased from Shiv Filling Station Ex-M-2 to M-21 were produced along with photocopies of other documents pertaining to agreement with contractor M/s. Devendra Construction Company.

7. *Vide* order dated 7.4.2011, document Ex-M-1 of the non-applicant was taken on record at the stage of non-applicant's evidence & applicant was provided an opportunity to produce evidence in rebuttal of the said document & in pursuance thereof, an additional affidavit of the workman was filed on 21.7.2011.

8. Following points for determination were framed on 6.9.2005:—

- (i) Whether the workman was employed as a Generator Operator on 15.4.2001 at Sahewa Exchange, Distt. Churu by a verbal order of non-applicant No. 2, who had completed 240 days of continuous work with the non-applicant establishment and whose service was terminated in violation of Section 25-F of the Act?
- (ii) Whether at the time of terminating the service of the workman, the junior persons to him were retained by the non-applicants in violation of Section 25-G of the Act?
- (iii) Whether subsequent to the termination of workman's service, the new appointments were made by the non-applicants in violation of Section 25-H of the Act & Rule 78 of the Industrial Disputes (Central) Rules, 1957?
- (iv). Relief, if any.

Point No. I

9. The workman has stated in his affidavit that he

was employed by Sh. Suresh Kumar, JEO by oral order as generator operator at Sahewa Exchange of the non-applicant on 25.4.2001. He has also stated that prior to appointment training was imparted to him on 13th & 14th of April, 2004 by Junior Eng. (Electronics). He has also stated that register & log book were provided to him for work report & the same were being verified by the senior officers. He has further stated that he had continuously worked as generator operator from 15.4.2001 to 26.2.2002 & had worked for more than 240 days during a calendar year. He was being paid Rs. 2500/- per months as salary after obtaining his signature. He has also stated that he used to bring diesel from the Shiv Filling Station & bills Ex-W-1 to W-21 which have been produced by the non-applicant bear his signature & above bills have been verified by Sh. Suresh Kumar. He has alleged that his services were terminated on 26.2.2002 without any notice, notice pay or compensation.

10. The workman in his additional affidavit dated 21.7.2011 has denied the alleged signatures on receipt Ex-M-1. He has also denied that endorsement C to D was made by him & amount shown in the receipt was received from M/s Devendra Construction Company. In cross examination he has said that his signatures on Ex-M-2 & other receipts are dissimilar to disputed signature A to B on Ex-M-1.

11. Countering above statement of the workman, the management witness Sh. Suresh Kumar Singhal, Sub-Divisional Eng. (Electric) has stated that the work of maintenance & operation of the generator was being done through contractor. He has denied that Sh. Kanta Prasad was appointed by him as generator operator. He has also denied that any training was imparted to the workman by him. He has stated that post of generator operator never existed in the non-applicant establishment & the workman had not worked as generator operator under the employment of non-applicant.

12. The management witness Sh. Suresh Singhal has stated in cross-examination that two persons were deployed by the construction company, one of them was Sh. Kanta Prasad & he was operating generator during period from 15.4.2001 to 26.2.2002. He has also stated that the payment of the bills Ex-W-1 to W-21 was made by the department & the above bills bear signature of the workman.

13. From the evidence of the management it is evident that the version of the workman has been admitted by the non-applicant to this extent only that he was operating the generator of the non-applicant during period 15.4.2001 to 26.2.2002 & bills of diesel of Shiv Filling Station Ex-W-1 to W-21 which are in favour of JEO bear signature of the workman.

14. Thus, the question survives for consideration is whether the workman was working as an employee of the non-applicant Department & employer employee relations

existed between the workman & the non-applicant.

15. The Id. Representative on behalf of the workman contends that workman was appointed as generator operator by Sh. Suresh Singhal & he was not operating the generator on behalf of the M/s. Devendra Construction Company. Had he been the employee of the construction company, the bills of Shiv Filling Station should have been in the name of the construction company or in the name of the workman. He further contends that the workman has denied his alleged signature on receipt Ex-M-1 & the admitted signatures of the workman differ from the disputed signature of the workman on Ex-M-1. He also contends that it is not believable that an amount of Rs. 25000/- for the period from 15.4.2001 to 15.2.2002 was paid to the workman at a time by the said receipt. It is evident from the receipt itself that the same is not genuine & such receipt cannot be relied upon.

16. Per contra, the Id. Representative on behalf of the non-applicant submits that no post of generator operator ever existed. The workman was never employed by the non-applicant as generator operator. Sh. Suresh Singhal has denied that the workman was employed by him as generator operator. He further submits that the non-applicant establishment is an Government establishment & no appointment can be made without following due procedure. He also submits that signature of the workman on receipt Ex-M-1 resembles with the admitted signature of the workman on Ex-M-2. From the oral & documentary evidence produced by the non-applicant it is establishment that the workman was operating the generator as an employee of the Construction Company & employer employee relation never existed between the workman & the non-applicant.

17. I have given my thoughtful consideration on the above rival submissions.

18. The workman has stated that he was appointed by the non-applicant & has asserted the employer employee relationship. The non-applicant has denied such relationship; therefore, it is for the workman & not for the non-applicant to prove the fact by adducing evidence.

19. The workman in his claim statement has not alleged that the contract entered into by & between the management & the contractor M/s. Devendra Construction Company being sham & bogus & he was direct employee of the management. He has taken a definite stand that he was appointed as generator operator by JEO Sh. Suresh Singhal.

20. Thus, burden was upon the workman to establish that he was in fact employed by the non-applicant.

21. The workman has stated that he was orally employed by Sh. Suresh Singhal, JEO as generator operator. The workman has also stated that after interview two day's

training was imparted to him but he has not produced any document in this regard. The workman has stated that salary was used to be paid to him by Sh. Suresh Singhal, JEO after obtaining his signature on the receipt but he has not produced any record in this regard also. In statement of claim, it has been pleaded by him that he was allotted government accommodation & he was residing there but to substantiate his statement he has not produced any documentary evidence. He has admitted that government accommodation was for BSNL employees only. In cross examination he could not state whether there was any post of generator operator in the non-applicant establishment. Thus, except his own statement in the affidavit in his favour, he has not produced any documentary evidence to establish that he was in fact an employee of the non-applicant.

22. The management has produced documents Ex-M-2 to M-21 which are photocopies of the bills given by Shiv Filling Station regarding diesel supplied. These bills have been issued in favour of JEO (Electrical) & some of these bills bear signature of the workman. It has been contended on behalf of the workman that above bills show that the workman used to bring diesel from the Shiv Filling Station for operating generator at Sahava Exchange of the non-applicant as an employee of the non-applicant.

23. Upon persual of the record it reveals that the diesel required for the generator was to be supplied by the department however, the contractor was required to make his own arrangements for transportation from the petrol pump to generator installation. It reveals that payment of diesel was to be made by JEO & diesel from filling station was to be brought by the contractor.

24. In view of the above, I find considerable force in the contention of the Id. Representative for the non-applicant that even if, the workman was bringing diesel for operating generator & bills were given in favour of the JEO, it cannot be inferred on the basis of Ex-M-2 to M-21 that he was an employee of the non-applicant.

25. The management witness Sh. Suresh Singhal has stated that the work of operation & maintenance of the generator was being done by the contractor M/s Devendra Construction Company & log book was to be maintained by the contractor. The payment for performing the said work was used to be made to the contractor.

26. The above statement of the management witness also finds support from the statement of the management witness Sh. Devendra Lohia, partner M/s Devendra Construction Company who has stated that contract for the work related to generator operator for the period 15.4.2001 to 21.6.2002 was given to the company & for this purpose, the workman was engaged by the company for operating generator & payment was made to him by the company. He has also stated that as per agreement payment of the bills regarding diesel was made by the non-applicant.

In this regard, the management has also produced the receipt Ex-M-1.

27. The workman has denied the disputed signature on the receipt Ex-M-1 whereas the management witness Sh. Devendra Lohia has stated that the said receipt bears signature of the workman. Upon careful persual of the receipt, it appears that there is similarity in the disputed signature on the Ex-M-1 receipt & admitted signature on the bill Ex-M-2, therefore, the contention advanced on the behalf of the union in this regard cannot be sustained which is repelled accordingly.

28. In view of above discussion, the workman has failed to prove that he was employed by the non-applicant as generator operator against the post of generator operator & employer employee relation existed between him & the non-applicant. Thus, the provisions of Section 25-F of the I.D. Act are not attracted. Accordingly, this point is decided against the applicant.

Point No. II

29. The workman has stated in his affidavit that while terminating his services no seniority list was prepared & juniors to him were retained in the job.

30. Management witness Sh. Suresh Kumar Singhal has stated that the workman was neither given any appointment nor his services were terminated, therefore, there was no need to prepare any seniority list. He has also denied alleged violation of Section 25-G of the I.D. Act.

31. The workman has not disclosed the name of the person who was junior to him & allegedly retained by the non-applicant. Except his bald statement there is nothing on record to substantiate his statement that any junior person was retained in job in violation of Section 25-G of the I.D. Act. Thus, on this point the applicant union has failed to produce any reliable evidence in support of its plea & testimony of the workman on this point is feeble. Accordingly, this point is decided against the applicant union.

Point No. III

32. The union has pleaded in its claim statement that after terminating the services of the workman other person has been appointed on the post of generator operator. The non-applicant has denied the above facts.

33. The workman in his affidavit has stated that after terminating his services, Sh. Premprakash was appointed as Generator Operator without any offer of re-employment to him.

34. The management witness has stated that the workman was never given any appointment by the non-applicant; therefore, question did not arise for offer of re-employment.

35. The union has not produced any document in support of the statement of the workman that new hand Sh. Premprakash was appointed as Generator Operator. Apart that, the name of Sh. Premprakash as a new appointee has not been disclosed in the statement of claim & it is only in the affidavit of the workman, his name has been disclosed which is an after thought statement & cannot be relied upon. Further, he has failed to prove that employer employee relations existed between him & the non-applicant. Therefore, the workman has failed to prove violation of the provisions of Section 25-H of the I.D. Act. Therefore, this point is also decided against the workman.

Point No. IV

36. In view of the conclusion drawn in respect of points no. I to III, the workman has failed to prove that the alleged action of the management of the non-applicant was in violation of provisions of section 25-F, 25-G & 25-H of the I.D. Act.

37. To conclude, the applicant union has not succeeded in establishing its claim which deserves to be rejected.

38. Accordingly, the reference under adjudication is answered in negative against the applicant union & in favour of the non-applicant. Resultantly, the workman is not entitled to any relief.

39. Award as above.

40. Let a copy of the award be sent to Central Government for publication u/s 17(1) of the I.D. Act.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

कां आ 13.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म्युनिसिपल कॉरपोरेशन ऑफ डेलही के प्रबंधन के संबंध में निर्यात के कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट संदर्भ संख्या - (196/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-12-2013 को प्राप्त हुआ था।

[सं एल-42012/139/2012 - आईआर (डीयू)]
पी के वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 13.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 196/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the management of Municipal Corporation of Delhi, and

their workmen, received by the Central Government on 17.12.2013.

[No. L-42012/139/2012 - IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, DELHI**

I.D. No. 196/2012

Smt. Angoori, W/o Sh. Badri,
Nagar Nigam Karamchari Sangh,
Delhi Pradesh, P-2/624,
Sultanpuri, Delhi - 110045.

.....Workman

Versus

The Commissioner,
Municipal Corporation of Delhi
Town Hall, Chandni Chowk,
Delhi - 110006.

.....Management

AWARD

Shri Badri, S/o Shri Shiv Singh was working as beldar on daily wage basis at Alipur Store, Narela Zone, Municipal Corporation of Delhi (in short the Corporation). He breathed his last on 24.01.1996. Smt. Angoori, survived the deceased employee. She claimed for grant of family pension. Since the deceased. Shri Badri was a casual employee, the Corporation denied claim of family pension, put forward by Smt. Angoori, widow of the deceased employee. Shri approached the Nagar Nigam Karamchari Sangh (in short the union) for redressal of her grievances. The union raised a dispute before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, so submitted by the Conciliation Officer, appropriate Government referred the dispute to this Tribunal for adjudication *vide* order No. L: 42102/139/2012-IR(DU) New Delhi dated 07.12.2012, with following terms:

"Whether action of the management of Municipal Corporation of Delhi in denying family pension to Smt. Angoori Devi, wife of late Shri Badri from the date of death of the deceased workman, Shri Badri with effect from 24.01.1996 is justified or not? If not, what relief the workman is entitled to and from which date?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, Smt. Angoori opted

not to file her claim statement with the Tribunal.

3. Notice was sent to Ms. Angoori by registered post on 27.12.2012, calling upon her to file claim statement before the Tribunal on or before 17.01.2013. This notice was sent to her through the union, at P-2/624, Sultanpuri, Delhi, the address provided by the appropriate Government in order of reference. Neither the claimant nor the union responded to the notice, so sent.

4. Since none came forward on behalf of the claimant to file her claim statement, fresh notice was sent to her by registered post on 22.01.2013 calling upon her to file claim statement before the Tribunal on 11.02.2013. Notices were also transmitted to the claimant by registered post on 12.02.2013 and 12.03.2013 asking her to file her claim statement on or before 08.03.2013 and 09.04.2013 respectively. Lastly, notice dated 10.04.2013 was sent by registered post commanding the claimant to file her claim statement before the Tribunal on or before 24.05.2013. Neither the postal articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the claimant. Despite service of these notices, claimant opted to abstain away from the proceedings. No claim statement was filed on her behalf.

5. Since onus of the question referred for adjudication was there on the Corporation, it was called upon to file its response to the reference order. In its response to the reference order, the Corporation projects that the claim is not maintainable on the grounds of delay and laches, since the dispute has been raised after along gap of 16 years. No notice of demand was served on the management prior to raising of dispute, hence it has not acquired status of an industrial dispute. Even otherwise, Shri Badri never worked with the Corporation as a regular employee and as such, the claimant is not entitled for any family pension, after his death. It has been projected that the claim is liable to be dismissed.

6. Arguments were heard at the bar. None came forward on behalf of the claimant to advance arguments. Shri Umesh Gupta, authorized representative, raised submissions on behalf of the Corporation. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

7. Corporation contests the dispute on the count that no notice of demand was served on it prior to raising a dispute before the Conciliation Officer. These facts also remained uncontroverted. The object of the Industrial Disputes Act, 1947 (in the short the Act) is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and

economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bonafide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an "industrial dispute" is that it affects the right of the workmen as a class.

8. An industrial dispute comes into existence when the employer and the workman are at variance and the dispute/difference is connected with the employment or non-employment, terms of employment or with conditions of labour. In other words, dispute or difference arises when a demand is made by the workman on the employer and it is rejected by him and *vice versa*. In *Sindhu Resettlement Corporation Ltd.* [1968(1) LLJ 834], the Apex Court has held that mere demand, asking the appropriate Government to refer a dispute for adjudication, without being raised by the workmen with their employer, regarding such demand, cannot become an industrial dispute. Hence, an industrial dispute cannot be said to exist until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. In *Fedders Lloyd Corporation Pvt. Ltd.* [1970 Lab.I.C.421], High Court of Delhi went a step ahead and held that ".....demand by the workman must be raised first on the management and rejected by it, before an industrial dispute can be said to arise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejected the demand, is not sufficient to constitute an industrial dispute."

9. The above decision was followed by Orissa High Court in *Orissa Industries Pvt. Ltd.* [1976 Lab.I.C. 285] and Himachal Pradesh High Court in *village Paper Pvt. Ltd.* [1993 Lab.I.C. 99]. However, the Apex Court in *Bombay Union of Journalists* [1961 (2) LLJ 436] had ruled that an industrial dispute must be in existence or apprehended on the date of reference. If, therefore, a demand has been made by the workman and it has been rejected by the employer before the date of reference, whether direct or through the Conciliation Officer, it would constitute an industrial dispute. In *Shambhunath Goyal* [1978(1) LLJ 484], the Apex Court appreciated facts that the workman had not made a formal demand for his reinstatement in service. However, he had contested his dismissal before the Enquiry Officer and claimed reinstatement. Against the findings of the Enquiry Officer, he preferred an appeal to the Appellate Authority,

claiming reinstatement on the ground that his dismissal was bad in law. Then again, he claimed reinstatement before the Conciliation Officer in the course of conciliation proceedings, which was contested by the employer. Appreciating all these facts, the Apex Court inferred that there was impeccable evidence that the workman had persistently demanded reinstatement rejection of which brought an industrial dispute into existence.

10. In *New Delhi Tailor Mazdoor Union* [1979 (39) FLT 195], High Court of Delhi noted that Shambunath Goyal had not overruled *Sindhu Resettlement Pvt. Ltd.* But it had distinguished it on facts. It was also pointed out that decision of three Judges bench in *Sindhu Resettlement Pvt. Ltd.* could not have been overruled by two Judge bench in *Shambunath Goyal*. The High Court concluded that decision in *Sindhu Resettlement Pvt. Ltd.*, in case of any conflict between the two decisions, must prevail. The High Court held that making of the demand by the workman on the management was *sine qua non* for giving rise to an industrial dispute.

11. The High Court of Madras in *Management of Needle Industries* [1986(1) LLJ 405] has held that dispute or difference between management and the workman, automatically arises when the workman is dismissed from service. His dismissal per se creates a dispute or difference between the management and the workman. The Court further observed that "it is nowhere stipulated in the Act, particularly in section 2(k), that existence of the dispute as such is not enough but then there should be a demand by the workman on the management to give rise to an industrial dispute". However, this decision appears to be inconsistent with the ratio of decision in *Bombay Union of Journalists* (supra) and *Sindhu Resettlement* (supra). No doubt, for existence of an industrial dispute, there should be a demand by the workman and refusal to grant it by the management. However, a demand should be raised, cannot be a legal notion of fixity and rigidity. Grievances of the workman and demand for its redressal must be communicated to the management. Means and mechanism of the communication adopted are not matters of much significance, so long as demand is that of the workman and it reaches the management. Reference can be made to the precedent in *Ram Krishna Mills Coimbatore Ltd.* [1984 (2) LLJ 259].

12. The Act nowhere contemplates that the industrial dispute can come into existence in any particular, specific or prescribed manner nor there is any particular or prescribed manner in which refusal should be communicated. For an industrial dispute to come into existence, written claim is not *sine qua non*. To read into the definition, requirement of written demand for bringing an industrial dispute into existence would tantamount to rewriting the section, announced the Apex Court in *Shambunath Goyal* (supra). In other words, oral demand and its rejection will as much bring into existence an industrial dispute, as written one. If

facts and circumstances of the case show that the workman had been making a demand, which the management had been refusing to grant, it can be said that there was an industrial dispute between the parties.

13. Since the claimant had not come forward to project that demand notice was served on the Corporation, under these circumstances, stand taken by the Corporation is to be believed. The Corporation projects that no notice of demand was served on it, before industrial dispute was raised before the Conciliation Officer. Thus, it is emerging over the record that it has not been established that demand was raised on the Corporation, which was rejected by it and as such, dispute has not acquired status of an industrial dispute.

14. The Corporation further projects that a stale claim has been made, since it has been raised after a long gap of 16 years. Section 10(1) of the Act does not prescribe any period of limitation for making reference of the dispute for adjudication. The words 'at any time' used in sub section (1) of section 10 of the Act, does not admit of any limitation in making an order of reference. Law of limitation, which might bar any Civil Court from giving remedy in respect of lawful rights, cannot be applied by Industrial Tribunals. However, policy of industrial adjudication is that stale claim should not be generally encouraged or allowed unless there is satisfactory explanation for delay. In *Shalimar Works Ltd.* [1959 (2) LLJ 26], the Apex Court pointed out that though there is no limitation prescribed in making reference of the dispute to Industrial Tribunal, even so, it is only reasonable that disputes should be referred as soon as possible after having arisen and on failure of conciliation proceedings. In *Western India Match Company* [1970 (2) LLJ 256] the Apex Court observed that in exercising its discretion, Government will take into account time which has lapsed between its earlier decision and the date when it decides to consider it in the interest of justice and industrial peace to make the reference for adjudication. Same view was taken in *Mahabir Jute Mills Ltd.* [1975 (2) LLJ 326]. In *Gumali Singh* [2000 (1) LLJ 1080] Industrial Adjudicator dismissed the reference on the ground that there was delay of 8 years in raising the dispute, which delay was condoned by the Apex Court and it was ordered that the workman would not be entitled to any back wages for the period of 8 years but would be entitled to 50% of wages from the date it raised the dispute till the date of his reinstatement. In *Prahalad Singh* [2000 (2) LLJ 1653], the Apex Court approved the Award of the Tribunal in not granting any relief to the workman who preferred the claim after a period of 13 years without any reasonable or justifiable grounds. From above decisions, it can be said that the law relating to delay in raising or reference of dispute is bereft of any principles, which can be easily comprehended by the Litigants.

15. Claimant raised the dispute in respect denial of

family pension to her after death of the deceased workman, Shri Badri with effect from 24.01.1996. The dispute was raised by her in the year 2012. Thus, it is emerging over the record that the claimant had raised the dispute after a long gap of 16 years. No explanation has been offered for this inordinate delay. It appears that there was no industrial dispute in existence or could be even said to have been apprehended in the year 2012, when the appropriate Government applied its mind to the facts of the present controversy.

16. For claim of family pension, it was incumbent upon the claimant to establish that her husband was appointed with the Corporation against a sustentative post. As projected in response to the reference order, Shri Badri was engaged as a casual beldar. This fact finds corroboration from the claim statement, which was filed by the claimant before the Conciliation Officer. The Corporation made me to go through copy of the claim statement wherein it has been mentioned that Shri Badri was employed as beldar on daily wage basis at Alipur Store, Narela zone of the Corporation. Therefore, it is evident that as per own case of the claimant, her husband was not working on any substantive post. Casual beldar is not borne on the strength of the Corporation where he was engaged intermittently in exigencies of service. Therefore, such casual employee would not render any service within the meaning of Central Civil Services (Pension) Rules, 1972. In view of these facts, widow of deceased, Shri Badri is not entitled to raise a claim for family pension. Resultantly, it is concluded that action of the Corporation in denying family pension to Smt. Angoori is found to be justified. Smt. Angoori is not entitled to any relief on factual proposition too.

17. The foregoing reasons make me to conclude that Smt. Angoori is not entitled to any family pension. Action of the Corporation in denying family pension to Smt. Angoori is found to be justified. No relief can be granted in favour of Smt. Angoori. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

R. K. YADAV, Presiding Officer

Dated: 26-08-2013

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 14.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०एस०एन०एल०, डिब्रूगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 07/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/111/2010-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O.14.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2011) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL, Dibrugarh and their workman, which was received by the Central Government on 18/12/2013.

[No. L-40012/111/2010-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, GUWAHATI, ASSAM

PRESENT: Shri L.C. Dey, M.A., LL.B., Presiding Officer,
CGIT-cum-Labour Court, Guwahati,

Ref. Case No. 07 of 2011.

In the matter of an Industrial Dispute between:—
The Management of BSNL, Dibrugarh.

-Vrs-

Their Workman Miss Anjali Dutta.

APPEARANCES:

For the Workman. : Mr. S.K. Barkataki, Advocate.
Ms. B. Sarma, Advocate.
For the Management. : Mr. B.C. Pathak, Advocate.

Date of Award: 24-10-13

AWARD

1. This Reference has been initiated on an Industrial Dispute raised between the employer in relation to the Management of Bharat Sanchar Nigam Limited (in short BSNL), Dibrugarh, and their workman, which was referred by the Ministry of Labour, Government of India, New Delhi vide their Order No. L-40012/111/2010-IR(DU) dated 05.05.2011. The Schedule of this Reference is as under.

SCHEDULE

"Whether the action of the Management of Bharat Sanchar Nigam Ltd., Dibrugarh represented by the General Manager, BSNL, Dibrugarh, in terminating the Services of Miss Anjali Dutta w.e.f. May, 2009, is legal and justified? What relief the workman is entitled to?"

2. On receipt of the order in Reference, this Reference case has been registered and notices were served upon both the parties. Accordingly the workman and the Management appeared and submitted their claim statement/

written statement respectively. On 23.9.2011 this Tribunal received a petition by Post from the workman with prayer for withdrawal of the reference while notice was issued upon the workman directing her to appear before this Tribunal to submit her evidence-on-Affidavit for withdrawal of the case but she did not appear on the fixed date. On 4.1.2013 Mr. S.K. Barkataki, learned Advocate appeared and filed a petition being No. 122 on behalf of the workman stating that the workman is willing to proceed with the case and prayed for adjournment and allowing time. Accordingly petition was allowed. Thereafter, Mr. Barkataki, learned Advocate appeared and adjournments were allowed in favour of the workman on 20.2.2013 and 08.04.2013. Again on 3.7.2013 Mr. S.K. Barkataki, learned Advocate by filing a petition prayed for time for filing Vakalatnama and additional claim statement by the workman showing cause of illness, which was allowed. On 01.08.2013, Smti B. Sarma, learned Advocate submitted another petition No. 513/13 stating that the workman did neither appeared before them nor contact them and even the workman did not response in spite of making telephonic contact by the learned Advocate and hence, prayed for allowing the learned Advocate to withdraw from this Reference. Accordingly the petition was allowed and notice was issued upon the workman with direction to appear before this Tribunal in person through his engaged counsel and to attend the proceeding. The said notice was served upon the workman as it appears from the A/D card returned after service but the workman did not turn up as such, the Reference proceeded ex-parte against the workman and the Management was allowed opportunity to be heard ex-parte *vide* order dated 9.10.2013. But the Management is found absent and hence, this Reference has been taken up for disposal on the material available on record.

3. On perusal of claim Statement submitted by the workman Miss Anjali Dutta, it appears that the workman was in continuous service of the BSNL, Dibrugarh since November, 2005 to August, 2009 for more than 4 years in the Data Entry Department of BSNL and its allied works on various pay amounts. But the workman was suddenly terminated from her service without serving any notice or assigning any reason whatsoever by the Management of BSNL, Dibrugarh. Hence, the workman raised this dispute before the Assistant Labour Commissioner (C), Dibrugarh filing written complaint. Accordingly, the Assistant Labour Commissioner (C), Dibrugarh notified the same to the Manager, BSNL, Dibrugarh asking them to file written answer of the said complaint when the Management submitted its written comment stating therein, amongst other irrelevant things, that the workman was working under a contractor on contract basis but inspite of having given several chances by the Assistant Labour Commissioner (C), Dibrugarh the Management did not prove in any manner whatsoever that the said workman was working under any contractor or that she was a temporary worker. Then the

workman was given another chance by Assistant Labour Commissioner (C) to submit additional written statement in support of her case while the workman applied for some information of her service in the BSNL through the RTI but the same was refused. Subsequently the conciliation proceeding held by the Assistant Labour Commissioner (C) but it failed and this Reference has been initiated. The workman mentioned that unless appropriate adjudication is made after taking into account all the relevant documents submitted herewith and by considering all the aspects including the workman's age, qualification, length of service and the humanitarian ground, the workman will suffer great loss and injustice and hence, the workman prayed to pass orders giving appropriate relief and compensation to the workman.

In support of her contention the workman submitted the photo copies of the documents namely the complaint raised by the workman before the ALC (C), Dibrugarh, the letter issued by the ALC, Dibrugarh asking the Management in submitting their comments/views on the complaint, the comment of the Management, the Notices issued upon the parties for holding conciliation, the proceedings of conciliation, the certificate issued by the Management in favour of the workman, the report of the ALC and the copies of other qualification certificate of the workman.

4. The Management, on the other hand, submitted their written statement stating, *inter-alia*, that the workman being a contract labourer engaged by the contractor should have impleaded the contractor as her immediate employer and as the Management is a Corporation of the Government of India and a Government Company duly registered and incorporated under the Companies Act, 1956 having its various administrative and functional offices in different states including one Telecom District at Dibrugarh and hence, the Management is a State within the meaning of Article 12 of the Constitution of India and as such the Reference case with the schedule appended is not maintainable in this Forum for adjudication of the matter. The Management stated that considering the increasing works of contingent nature they decided to get the work done by tender system and then the Management floated tender on 22.12.2006 issuing notice inviting tender for the work of Data feeding and record creation in computer in various offices of Telecom District, BSNL, Dibrugarh. The Notice Inviting Tender incorporated all the regulating terms and conditions including payment of contractor's bills etc. including an arbitration clause relating to any dispute between the contractor and the BSNL and in Annexure-A the schedule of the rates of works were indicated. Accordingly as many as six Contractors participated by the said Notice Inviting Tender was cancelled on 13.7.2007. Again another Notice Inviting Tender was issued on 29.9.2007 for the similar works and on the said terms and conditions was published in the Newspaper namely the Assam Tribune, Dibrugarh dated 4.10.2007. Ultimately the

contractors namely Electro Power Associates, Dibrugarh, R.M. Enterprise, Dibrugarh, Data Com Computer Service, Dibrugarh, H.I. Electricals, Dibrugarh, S.M. Electricals, Dibrugarh and R.K. Traders, Dibrugarh were selected and they also entered into an agreement with the BSNL. Subsequently on 21.11.2008 again Notice Inviting Tender was issued for Data Feeding and record creation in computer for the Management and the said Notice Inviting Tender incorporated other terms and conditions and altogether three contractors are found qualified and the work orders were issued. The Management of BSNL, Dibrugarh received a letter dated 22.9.2009 from the Assistant Labour Commissioner (C), Dibrugarh including representation relating to the dispute raised by the workman Anjali Dutta. In response to the said notice the Management appeared before the ALC(C), Dibrugarh and submitted written comment refuting the allegations brought against the Management and accordingly the conciliation was held but in the final round of conciliation it ended on failure.

The Management contended that the documents submitted by the workman along with her claim statement *i.e.* copies of certificate allegedly issued by the SDE (Group), Dibrugarh, on 28.7.2008 certifying her to be working in computer data entry activities of BSNL from June, 2006 till date but no such officer having any power or authority under any circumstances to issue any such alleged certificate and hence, the Management decided to issue show cause notice during the pendency of this Reference and explanation were called for from Sri S.K. Duarah & Sri G.P. Chetia, JTO (Mobile) asking them as to what authority they had issued the certificates. The Officer concerned by their show cause stated that the said certificate was never issued by them and the signature is also not their own which is a forged one. The Management also issued letter seeking details of the workman but no response from the contractor so far.

Management further mentioned that the workman was never engaged by the BSNL and there is no Data Entry Operator in the BSNL as alleged by the workman. However the workman might have been engaged by the contractor of BSNL who were given work orders from time to time; and there is no prove to show any record as to what specific period and what duration in hours per day the workman was engaged by the contractor, if she was engaged as a contract labourer. The workman made some averments in her claim statement which are baseless, false and not supported by any documentary proof, as such, the case of the workman deserves to be dismissed. The Management also mentioned that they neither engaged the workman in any service nor terminated from service and hence, there is no question of any notice or to assign any reason relating to her alleged termination. The workman, if at all, engaged by the contractor as contract labourer, she had suppressed that fact and never impleaded the concerned contractor. It is also averred that the contract

with the contractor came to an end as per agreement as there was no further need, now new tender was invited subsequently. In order to get the benefit under the Industrial Dispute Act, 1947 and the legality and validity of termination/retrenchment under Section 25-F the workman must show that he was worked for 240 days in continuous service as defined under Section 25-B(2)(a)(ii) of the said Act lies on the workman. But the workman was never engaged by the BSNL and there is nothing on the record to show that the workman had ever completed 240 days in engagement during 12 consecutive months in continuous service. Hence, the workman is not entitled to any relief and the Reference is liable to be dismissed. In support of their contention the Management submitted certain documents namely the copies of Notice Inviting Tender, the paper advertisement, the agreements entered into between the BSNL and the service provider *i.e.* contractor, the reference made by ALC (C), Dibrugarh along with the documents submitted by the workman, the show cause notice issued upon the JTO (mobile) and their reply thereupon etc.

5. On perusal of the pleadings of both the sides it is revealed that the claim of the workman is that she was engaged by the BSNL in Data Entry Department and its allied works on various pay amounts from November, 2005 to August, 2009 and she was suddenly terminated from that service without serving any notice whatsoever from the end of BSNL. But the workman has neither been able to substantiate her claim by adducing evidence and filing relevant document regarding her appointment as well as the mode of appointment, such as appointment letter/discharge letter nor she could appear before this Tribunal and to prove her contention adducing supporting evidence. The Management of BSNL, Dibrugarh on the other hand, took the plea that the workman might be a contract labourer under the contractors selected for the works of Data Entry etc. in computer and as they are not the immediate employer of the workman the question of issuing any discharge notice, payment of benefits of discharge/retrenchment does not arise. The Management also took another plea that the copy of certificate produced by the workman is a forged and fake one as the officer S.K. Dohara, JTO (mobile) in his explanation submitted before the Management clearly mentioned that the said certificate was never issued by him and the signature appear in the said certificate is also not of his own which is a forge one.

6. It is well established principle of law that the onus of proving continuous service in order to get the benefit u/s 25(f) of the ID Act lies on the workman to prove that he has worked for 240 days in continuous service as defined u/s 25 (B) (ii) (a) (ii) of the Act. In this connection I am inclined to rely upon the cases of (1) Range Forest Officer-Vs-S.T. Hadimani reported in (2002) 3 SCC 25; (2) Ranip Nagar Palika-Vs-Babuji Gabhaji Thakore & Others reported in (2007) 13 SCC 343.

In the present reference the workman after filing written statement found reluctant to appear before this Tribunal and to prove her pleading. Even the workman was found willing to withdraw the proceedings by filing petition by Post and the learned Advocate appeared on behalf of the workman and ultimately prayed for withdrawal from the Reference due to lack of communication with the learned Advocate. Even the workman is found disobeying the process of the Court. Thus it is clear from the above discussion that the workman has failed to prove her case and as such, the workman is not entitled to any relief as prayed for. Accordingly this reference is disposed of without granting any relief.

7. Send the no relief Award to the Government as per law.

Given under my hand and seal of this Court on this 24th day of October, 2013, at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 15.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, एस्०वी०एन्०आई०आर०टी०आर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 11/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/53/2008-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 15.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2009) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar-2 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, SVNIRTAR, Olatpur, Cuttack and their workman, which was received by the Central Government on 18/12/2013.

[No. L-42012/53/2008-IR (DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT BHUBANESWAR

PRESENT: Shri J. Srivastava, Presiding Officer, C.G.I.T.-
Cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 11/2009

Date of Passing Award-24th October, 2013

Between:

The Director, SVNIRTAR
At/Po. Olatpur, Cuttack
1st Party-Management
(AND)

Their workman Shri Banku Bhoi,
S/o, Shri Birabar Bhoi, At. Damodarpur,
(Pradhan Sahi), Po. Kantapara, Cuttack
.... 2nd Party

Workman

APPEARANCES:

Shri S.N. Majhi, For the 1st Party-
Auth. Representative Management

Shri Banku Bhoi For himself the 2nd
Party-Workman

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of SVNIRTAR and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act *vide* its letter No. L-42012/53/2008-IR (DU) dated 16.2.2009 in respect of the following matter.

"Whether the action of the management of Swami Vivekananda National Institute of Rehabilitation Training and Research in terminating the services of Shri Banku Bhoi *w.e.f.* 26.09.2007 is legal and justified? If not, to what relief the workman is entitled to?"

2. The 2nd Party-workman has filed his statement of claim stating that the 1st Party-Management is an industrial establishment under the Ministry of Social Justice and Empowerment, Government of India. The main object of the said establishment is to give medical facilities to the orthopedic and physically handicapped persons and also manufacture artificial limbs and provide the same of the physically handicapped persons. Previously it was known as National Institute of Rehabilitation Training & Research, but subsequently its name was changed to SVNIRTAR. The 2nd Party-workman was initially appointed in the post of garden mali on 20.5.1994 on daily wage basis @ Rs. 52.50 per day in the maintenance section of the establishment. He had worked as garden mali till 30.4.2002 and thereafter was engaged in the office canteen on 2.5.2002 by the order of the Director. He had continuously worked in the canteen till 10.10.2007, but he was not paid salary for the period from 26.9.2007 to 10.10.2007. On 10.10.2007 he was instructed not to come to the canteen from 11.10.2007 without assigning any reason. He requested the Director to allow him to continue in his employment, but despite his

assurances no positive action was taken. He has not committed any misconduct of disobedience, but had worked sincerely and honestly to the best satisfaction of the authority. The order of refusal of employment is highly illegal and improper and violative of the legal provisions. He raised the dispute before the Assistant Labour Commissioner (Central). The conciliation proceedings were started, but ended in failure. Hence this reference was made on failure report submitted by the labour authorities. The 2nd Party-workman is therefore entitled to be reinstated in service with full back wages and other dues, declaring his termination as illegal and unjustified.

3. The 1st Party-Management in its written statement has alleged that the establishment of the 1st Party-Management is not doing any business or trade. As such it does not come under the purview of Section 2(j) of the Industrial Disputes Act, 1947. The 2nd Party-workman was given the job of cleaning utensils in the canteen on his lowest quotation on contract basis, on a lump-sum amount of Rs. 1800/- for one year which was subsequently enhanced to Rs. 2000 per month with effect from 01.10.2004. The contract was subsequently extended for a further period of two years and was discontinued with effect from 26.09.2007. The 2nd Party-workman was accordingly paid proportionate amount of Rs. 1666/- for cleaning the utensils for 25 days in the month of September, 2007. The 2nd Party-workman has not done the job of clearing of utensils from 26.9.2007 to 10.10.2007. Hence no payment was made for the said period. The 2nd Party-workman does not come under the definition of "workman". As such the reference is not maintainable and this Tribunal has no jurisdiction to adjudicate upon the alleged dispute. It is false to allege that the 2nd Party-workman was initially appointed in the post of garden mali on 30.5.1994 on daily wage basis @ Rs. 52.50 per day in the maintenance section of the establishment of the 1st Party-Management. Since the 2nd Party-workman was engaged purely on contract basis there is no question of paying any salary to him and refusal of employment with effect from 10.10.2007.

4. On the pleadings of the parties, following issues were framed:—

ISSUES

1. Whether Swami Vivekananda National Institute of Rehabilitation Training and Research (SVNIRTAR) will come under the purview of Industrial Disputes Act?
2. Whether the Action of the Management of Swami Vivekananda National Institute of Rehabilitation and Research in terminating the services of Shri Banku Bhoi with effect from 26.9.2007 is legal and justified?
3. If not, to what relief the workman is entitled?

5. The 2nd Party-workman has examined four witnesses including himself and relied upon six documents marked as Ext.-1 to 6. The witnesses examined on his behalf are W.W.-1 Shri Banku Bhoi, the disputant himself, W.W.-2 Smt. P. Nukama Dei, W.W.-3 Shri Basanta Kumar Pradhan and W.W.-4 Shri Srimanta Kumar Das.

6. On the other hand the 1st Party-Management has examined Shri Biswanath Mallick as M.W.-1 and relied upon four documents marked as Ext.-A to D.

FINDINGS

ISSUE No. 1

7. Although the 1st Party-Management has stated that its establishment has not been doing any business or trade and such it is not amenable to the jurisdiction of this Tribunal not being an industry, yet it is to be mentioned that it is running a hundred bed hospital for rendering service to the persons with disabilities and is also running a mess for the hospital patients. It also imparts training to the professionals in the field of rehabilitation and manufactures artificial limbs and provides them to the physically handicapped persons. It cannot be said that all these facilities are provided free. Therefore, it cannot be denied that the 1st Party-Management is an industrial establishment and the employees engaged by it are workmen. Further, it seems that the 1st Party-Management has later given up this issue as nothing has been said by its witness M.W.-1 Shri Biswanath Mallick in his evidence before this Tribunal, whereas the 2nd party-workman has categorically stated that the 1st Party-Management is an industry. The burden to prove this issue shifts on the 1st Party-Management when the initial onus is discharged by the 2nd Party-workman. But the 1st Party-Management has failed to discharge this burden. As such it is held that the Swami Vivekananda National Institute of Rehabilitation Training and Research (SVNIRTAR) will come under the purview of the Industrial Disputes Act. This issue is accordingly decided in the affirmative.

ISSUE No. 2

8. According to the 2nd Party-workman he was engaged as a daily wage labourer in the year 1994 under the 1st Party-Management and worked as such up-to 2002. Thereafter he was instructed to work as dish washer in the canteen of the 1st Party Management from the year 2002 to 2007. On 10.10.2007 he was refused work as the Management told him to work under the contractor to which he did not agree. On the other hand the 1st Party-Management has submitted that the 2nd Party-workman was given the job of cleaning the utensils in the canteen on contract basis on a lumpsum amount of Rs. 1800 per month which was subsequently enhanced to Rs. 2000 per month. Initially the contract was for one year with effect from 1.10.2004, which was subsequently extended for a further period of two years. But before expiry of the period

of two years it was discontinued with effect from 26.9.2007 and the 2nd party-workman was accordingly paid proportionate amount of Rs. 1666/- for 25 days. He has not done the job of cleaning of utensils from 26.9.2007 to 10.10.2007. Hence no payment was made for the said period. All the allegations regarding his engagement contrary to it have been denied by the 1st Party-Management.

9. The burden to prove this issue lies on the 2nd Party-workman, but he has not adduced any worth reliable evidence, either oral or documentary on this point. He has filed six xerox copies of the attendance register from November, 2003 to April, 2004, but these copies have not been signed by any authority of the 1st Party-Management. These might be falsely manufactured and even if presumed to be proof of working in the NIRTAR for the aforesaid period these copies of the attendance register do not show in which capacity and in which department he was working. These documents show his alleged engagement for six months only, whereas he has alleged that he had been working under the 1st Party-Management since 30.5.1994. He has admitted in his cross examination that "I cannot show any appointment letter. I have no letter which can prove that I had worked in the canteen". He has admitted that "I had received Rs. 1666 vide letter dated 10.10.2007. I have signed in that letter and I had received the said amount". This admission goes to prove the version put-forward by the 1st Party-Management. M.W.-1 Shri B.N. Mallick has categorically stated in his evidence before this Tribunal that "the disputant workman has taken contract for cleaning the utensils of the canteen. First he has taken the contract for one year and then it was renewed for another two years". He has also proved the quotation of the disputant workman given to the Management, which has been marked as Ext.-A along with work order issued to the 2nd Party-workman marked as Ext.-B and the renewal of the work order for next two years marked as Ext.-C and also the receipt of payment of wages marked as Ext.-D.

10. The evidence of the three witnesses adduced by the 2nd Party-workman does not inspire confidence because of being shaky and inconsistent with each other's deposition. W.W.-2 Smt. P. Nukuma Dei has stated that "I cannot say for how many years the disputant workman was working under the Management". W.W.-3 Shri Basanta Kumar Pradhan has stated in his cross examination that "the disputant was working under the canteen under a contractor. I cannot say whether any quotation was floated for the canteen. The disputant was not signing in the attendance register". He has also stated that "the disputant workman was not getting wages from the office like regular employees" which is inconsistent with the statement of the 2nd Party-workman made in his cross examination to the effect that "it is a fact that I was receiving my wages from the office directly". W.W.-4 Shri Srimanta Kumar Das has also stated that "the disputant

workman was working under the contractor" and he was getting wages directly from the office of the Management. In his cross examination he has stated that "I know that the disputant was given quotation to work under the Management canteen on contract basis". Thus the stand taken by the 2nd Party-workman cannot be said to be believable and trust-worthy. No documentary evidence has been filed by the 2nd Party-workman to prove that he was engaged by the 1st Party-Management as a labourer on a daily wage basis and continued to work under the 1st Party-Management since 30.5.1994 to 10.10.07. Oral evidence led by him does not suffice to hold that he had rendered 240 days continuous service under the 1st Party-Management as a daily wage labourer during the period of twelve calendar months preceding his alleged disengagement. According to the 1st Party-Management he was a contractual worker engaged for cleaning utensils in the canteen on contract basis and he was discontinued to work on 26.9.2007 some days prior to the conclusion of the contract for which he may seek damages from Civil Court. His engagement being on contract does not entitle to him any protection under the Industrial Disputes Act, 1947. Therefore the action of the 1st Party-Management in disengaging him from contract work cannot be held to be illegal and unjustified under the purview of the provisions of the Industrial Disputes Act. This issue is thus decided against the 2nd Party-workman.

ISSUE No. 3

11. For the findings recorded above the 2nd Party-workman is not entitled to any relief.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का० आ० 16.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर बी.एस.एन.एल., जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 26/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं० एल-40012/81/2004-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 16.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. No. 26/2007) of the Cent.Govt.Indus.Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The General Manager, BSNL, Jaipur and their workman, which was received by the Central Government on 18/12/2013.

[No. L-40012/81/2004-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Sh. N.K. PUROHIT, Presiding Officer
I.D. 26/2007

Reference No. L-40012/81/2004 [IR(DU)] dated: 1.3.2007

Shri Mukesh Kumar
S/o Shri Nand Kishore Harijan
164, Banjara Basti, Sector-5,
Udaipur.

V/s

The General Manager,
BSNL, Udaipur.

PRESENT:

For the applicant : Ex-party
For the Non-applicant : Shr. B.L. Ahir

AWARD

Dated : 22-5-2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub- Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

" Whether the action of the management of General Manager, Bharat Sanchar Nigam Limited, Udaipur, in terminating the services of their workman Shri Mukesh Kumar *w.e.f.* 23.9.2000 is legal & justified? If not, to what relief the concerned workman is entitled to?"

2. The workman in his statement of claim has pleaded that he had worked under the non-applicant during period 28.6.1997 to 22.9.2000 & despite he had worked for more than 240 days, his services were terminated without any notice, notice pay or compensation. He has also alleged that while terminating his services no seniority list was prepared & junior to him were retained in the job & new hands were given recruitments after terminating his services.

3. In reply, the non-applicant has denied the claim of the workman & it has been averred that the workman was

engaged temporarily for cleaning toilets. It has been denied that workman was employed as worker & he had worked as such during period 28.6.1997 to 22.9.2000.

4. None appeared on behalf of the workman on 7.11.2012, therefore, ex-party proceedings were drawn against him.

5. Since, the workman has not filed his affidavit in support of his claim; non-applicant has not adduced any evidence.

6. Heard the Ld. Representative for the non-applicant & perused the record.

7. Initial burden was on the workman to prove his case set forth in the statement of claim but after filing rejoinder the workman did not appear on subsequent dates to file his affidavit in support of his claim, therefore, ex-party proceedings were drawn against him. Thus, there is no material on record to adjudicate the reference under consideration on merits.

8. It appears that the workman is not interested to contest the case further. Under these circumstances, " No Dispute Award" is passed in this matter. The reference under adjudication is answered accordingly.

9. Award as above.

10. Let a copy of the award be sent to Central Government for publication u/s 17 (1) of the I.D. Act.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 17.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर बी०एस०एन०एल०, ईलुरु के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 70/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं० एल-40011/31/2011-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 17.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2011) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of The General Manager, BSNL Eluru and their workman which was received by the Central Government on 18.12.2013.

[No. L-40011/31/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD

PRESENT: Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 3rd day of May, 2013

Industrial Dispute No. 70/2011

BETWEEN:

Sri K.S.R. Murthy,
 The District Secretary,
 National Union of B.S.N.L. Workers,
 Dondapadu Dibba, Sanivarapur Pet (P.O)
 Elurgu-534003 ...Petitioner

AND

The General Manager,
 Telecom District,
 Bharat Sanchar Nigam Ltd.,
 Eluru. West Godavari District ...Respondent

APPEARANCES:

For the Petitioner : Sri R. Yogender Singh, Advocate

For the Respondent : M/s. Ch. Lakshmi Kumari &
 Ch. Venkateswara Rao, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/31/2011-IR(DU) dated 12.10.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Bharat Sanchar Nigam Ltd., and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of BSNL, Eluru, West Godavari District, in refusing to consider the stepping up of pay of 19 Senior Workmen (as per the list enclosed) to bring parity with their juniors, is legal and justified? What relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 70/2011 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents. Petitioner union representative called absent and there is no representation since long time. In spite of giving fair opportunity, claim statement was not filed by the Petitioner and the matter is coming up since the year 2011. In the circumstances, taking that Petitioners are not interested in the proceedings, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 3rd day

of May, 2013.

M. VIJAYA LAKSHMI, Presiding officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 दिसम्बर, 2013

कांआ 18.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर बीएसएनएल, डिब्रुगढ़ के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 04/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं एल-40012/110/2010-आईआर (डीयू)]

पी के वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 18.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2012) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute Between the employers in relation to the management of BSNL, Dibrugarh and their workman, which was received by the Central Government on 18/12/13.

[No. L-40012/110/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-
 CUM-LABOUR COURT, GUWAHATI, ASSAM**

PRESENT: Shri L.C. Dey, M.A., LLB., Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 04 of 2012

In the matter of an Industrial Dispute between:—

The Management of BSNL, Dibrugarh.

-Vrs-

Their Workman Smt. Anjumoni Dutta Hazarika.

APPEARANCES:

For the Workman : Mr. S.K. Barkataki, Advocate,
 Ms B. Sarma, Advocate.

For the Management : Mr. B.C. Pathak, Advocate

AWARD

Date of Award: 24.10.13

1. This Reference has been initiated on an Industrial Dispute between the Management of Bharat Sanchar Nigam Limited (in short BSNL), Dibrugarh, represented by General Manager, BSNL, Dibrugarh and their workman Smt. Anjumoni Dutta Hazarika on account of termination of service of the said workman by the Management, which was referred by the Ministry of Labour, Government of India, New Delhi vide their order No. L-40012/110/2010-IR(DU) dated 25.05.2011. The Schedule of this Reference is as under.

SCHEDULE

"Whether the action of the management of Bharat Sanchar Nigam Limited, Dibrugarh represented by the General Manager, BSNL, Dibrugarh, in terminating the Services of Smt. Anjumoni Dutta Hararika who was working as Data Entry Operator upto May, 2009, is legal and justified? What relief the workman is entitled to?"

2. The Ministry of Labour, Government of India, New Delhi referred this dispute to the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No. 1, Karkardooma Court Complex, Room No. 38, Block-A, New Delhi-110032 for adjudication and accordingly the proceeding was initiated by the Learned Presiding Officer, CGIT-cum-Labour Court No. 1, New Delhi and the Management appeared there. Subsequently at the instance of the Management the Ministry of Labour and Employment, New Delhi vide their order No. L-40012/110/2010-IR(DU) dated 31.10.2011 withdrawn and transferred the Reference to this Tribunal. Thereafter the Reference has been received on 20.12.2011 for adjudication, from CGIT-cum-Labour Court No. 1, New Delhi on transfer and the same has been renumbered and proceedings has been started.

3. After registration of this Reference, notices were issued upon both the parties. Accordingly Management appeared and sought for adjournment for filing written statement. Notice issued upon the workman returned after service. On 4.1.2013 Mr. S.K. Barkataki, Learned Advocate appeared on behalf of the workman and filed petition No. 127 with prayer for time for filing claim statement along with Vakalatnama; and on 20.2.2013 Mr. S.K. Barkataki, Learned Advocate submitted another petition being No. 184 stating that the workman intended to withdraw the case for failure to engage any lawyer owing to monitory reason and the learned advocate Mr. Barkataki has come forward to take up the Reference on behalf of the workman and to conduct the same, and prayed for time for filing claim statement along with Vakalatnama. Again on 8.4.2013 and 3.7.2013 Mr. S.K. Barkataki, learned Advocate submitted petition with prayer for adjournment showing cause that the workman could not contact them and to file Vakalatnama due to her illness. Lastly, on 01.08.2013, Learned Advocate Miss B. Sarma, submitted petition No. 514/13 stating that the workman did not contact them and

hence, the Learned Advocate Mr. S.K. Barkataki and his Associates wanted to withdraw from this case. Accordingly the petition was allowed and a fresh notice was issued to the workman directing her to appear before the Tribunal either personally or through her engaged counsel and to submit claim statement fixing 10.09.2013 vide order dated 01.08.2013. The said notice was returned after service upon the workman, but the workman remained absent without any step and hence, this Reference has been proceeded ex-parte against the workman vide order dated 9.10.2013.

4. On perusal of the record it appears that the Ministry of Labour and Employment has referred the dispute for adjudication by this Tribunal on the issue i.e. whether the action of the Management of BSNL, Dibrugarh in terminating the service of Smt. Anjumoni Dutta. Hazarika who was working as Data Entry Operator upto May, 2009 is legal and justified, and what relief the workman is entitled to? But the workman in spite of getting sufficient opportunities did neither appeared before this Tribunal personally nor through her Advocate/counsel and the Learned Advocate Mr. S.K. Barkataki although appeared and expressed his willingness to conduct this proceeding on behalf of the workman, he ultimately expressed his inability to conduct the proceeding due to failure of the workman to contact them and to submit the Vakalatnama. The Management appeared through their Learned Advocate initially filing Vakalatnama but they did not submit the written statement, and remained absent since last date. Thus it is clear that the claimant/workman herself has not been able to substantiate her claim adducing evidence both oral and documentary. The workman is found avoiding the notice of the Court. The Management is also found reluctant to contest the proceedings.

5. In view of my above discussion it can safely be held that the workman has failed to establish her claim and hence, I am unable to decide the issues involved in the Reference on merit. Accordingly, this Reference is disposed of without granting any relief to the workman.

6. Send the no relief Award to the Government as per law.

Given under my hand and seal of this Court on this 24th day of October, 2013, at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 19.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य जनरल मैनेजर, हेवी वाटर प्लांट, खम्माम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचात (संदर्भ संख्या 15/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं. एल-42011/63/2010-आई आर (डी यू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 19.—In pursuance of Section 7 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2012) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute Between the employers in relation to the management of The Chief General Manager, Heavy Water Plant, Khammam and their workman, which was received by the Central Government on 18/12/13.

[No. L-42011/63/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : SMT. M. VIJAYA LAKSHMI, Presiding
Officer

Dated the 5th day of June, 2013

INDUSTRIAL DISPUTE NO. 15/2011

BETWEEN:

Sri Syed Khasim Hussain,
(Rep. of workman)
Ex. Scientific Asstt. 'D',
H.No 11-2-71, Sree Nagar Colony,
New Palvoncha (P.O.)-507115.
Khammam District.Petitioner

AND

The Chief General Manager,
M/s. Heavy Water Plant (Manuguru),
Aswapuram-507116.
Khammam District.Respondent

APPEARANCES:

For the Petitioner : Sri M.V.L. Narasaiah,
Advocate

For the Respondent : None

AWARD

The Government of India, Ministry of Labour by its Order No. L-42011/63/2010-IR(DU) dated 28.3.2011 referred the following dispute under section 10(1)(d) of the I.D. Act. 1947 for adjudication to this Tribunal between the management of M/s. Heavy Water Plant and their workmen. The reference is,

SCHEDULE

"Whether the demand of Shri D. Daruga, contract labour employed by the Heavy Water Plant (Manuguru) SC, BC and other Land Loosers Contract

Labour Cooperative Society Ltd., Aswapuram for payment of Bonus as per provisions of the Payment of Bonus Act, 1965, is legal and justified? What relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 15/2011 and notices were issued to the parties.

2. Case stands posted for filing claim statement and documents by the Petitioner union.

3. Petitioner union or their counsel called absent and there is no representation. Claim statement and documents are not filed. In spite of giving fair opportunity. Petitioner union is not taking interest in the proceedings though the matter is pending since 2011. Taking that Petitioner union is not interested in the proceedings of the case, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 5th day of June, 2013.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 20.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य जनरल मैनेजर, हेवी वाटर प्लांट, खम्माम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 16/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

रखसं एल-42011/62/2010-आई आर(डीयू),
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 20.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2011) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of The Chief General Manager, Heavy Water Plant, Khammam and their workman, which was received by the Central Government on 18/12/2013.

[No. L-42011/62/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT: SMT. M. VIJAYA LAKSHMI,
Presiding Officer

Dated the 5th day of June, 2013

INDUSTRIAL DISPUTE NO. 16/2011

Between:

Sri Syed Khasim Hussain,
(Rep. of workman)
Ex. Scientific Asstt. 'D',
H.No 11-2-71, Sree Nagar Colony,
New Palvoncha (P.O.)-507115.
Khammam District.Petitioner

AND

The Chief General Manager,
M/s. Heavy Water Plant (Manuguru),
Aswapuram-507116.
Khammam District.Respondent

APPEARANCES:

For the Petitioner : Sri M.V.L. Narasaiah, Advocate

For the Respondent : None

AWARD

The Government of India, Ministry of Labour by its Order No. L-42011/62/2010-IR(DU) dated 28.3.2011 referred the following dispute under section 10(1)(d) of the I.D. Act. 1947 for adjudication to this Tribunal between the management of M/s. Heavy Water Plant and their workmen. The reference is,

SCHEDULE

"Whether the demand of Shri M. Santosh Rao, contract labour employed by the Heavy Water Plant (Manuguru) SC, BC and other Land Loosers Contract Labour Cooperative Society Ltd., Aswapuram for payment of Bonus as per provisions of the Payment of Bonus Act, 1965, is legal and justified? What relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 16/2011 and notices were issued to the parties.

2. Case stands posted for filing claim statement and documents by the Petitioner union.

3. Petitioner union or their counsel called absent and there is no representation. Claim statement and documents are not filed inspite of giving fair opportunity. Petitioner union is not taking interest in the proceedings though the matter is pending since 2011. Taking that Petitioner union is not interested in the proceedings of the case, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 5th day of June 2013.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner NIL	Witnesses examined for the Respondent NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 21.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म्युनिसिपल कारपोरेशन ऑफ दिल्ली, दिल्ली डेवलपमेंट अथॉरिटी, विकास सदन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट संदर्भ संख्या - (132/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं० एल-42011/46/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 21.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 132/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the management of Municipal Corporation of Delhi, Delhi Development Authority, Vikas Sadan, and their workmen, received by the Central Government on 18/12/2013.

[No. L-42011/46/2012-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE DR. R.K. YADAV, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, DELHI****I.D. No. 132/2012**

Shri Om Prakash S/o Mange Ram
C/o General Secretary,
Municipal Employees, Union,
Aggarwal Bhawan, G.T. Road,
Tis Hazari, Delhi - 110054.

...Workman

Versus

1. The Commissioner (North),
North Delhi Municipal Corporation,
4th Floor, SPM Civic Centre,
J.L. Nehru Marg,
New Delhi - 110002
2. The Secretary,
Delhi Development Authority
Vikas Sadan, INA Market,
New Delhi- 110023. ...Managements

AWARD

An Assistant Wireman was engaged on muster roll as daily wager by Delhi Development Authority (hereinafter referred to as the Authority) in February 1981. Subsequently, he was engaged as work charged Assistant wireman with effect from 06.01.1983. Vide Establishment Order No. 377 dated 08.03.1991, he was treated as regular work charge employee with effect from 10.01.1991. Vide notification dated 26.09.1994, Government of NCT of Delhi placed 43 colonies under control and management of Municipal Corporation of Delhi (hereinafter referred to as the Corporation). Pay and allowance of work charged staff are directly chargeable to works. Employees working as work charged staff, whose pay and allowances were chargeable to work of those 43 colonies, were transferred to the Corporation vide order dated 19.05.1995. The Assistant Wireman was relieved by the Authority vide letter No. F. 5(1)ED/(8)/DDA/95/2281 dated 20.05.1995 to join services with the Corporation. Since the Assistant Wireman, namely, Shri Om Prakash, who was one of the employees transferred vide letter dated 19.05.1995, felt that the Authority cannot transfer his services to the Corporation, he filed a civil suit, which was dismissed by the Ld. Civil Judge, Tis Hazari Courts, Delhi, vide judgement dated 05.08.2000. Appeal preferred by him also came to dismissed.

2. At that juncture, when Shri Om Prakash lost before the civil court, he approached the Mazdoor Employees Union (in short the union) for redressal of his grievance. The union took up his cause and raised a demand on the Corporation projecting therein that since the claimant was not allowed to join his duties, the said action amounts to

termination of his service. A claim was made that Shri Om Prakash may be reinstated in service with continuity and full back wages. The Corporation came out with a reply that Shri Om Prakash was supposed to join his duties, alongwith relieving letter issued by the Authority. Since he had not produced his relieving order, he cannot be allowed to join his duties. When demand, raised by the Union, was not conceded to the union approached the Conciliation Officer. Since claim was contested before that forum also, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-42011/46/2012-IR(DU), New Delhi dated 12.10.2012, with following terms:

"Whether the action of the management of MCD in not taking in the employment workman, Shri Om Prakash, S/o Shri Mange Ram, Assistant Wireman, even though he was transferred from DDA to MCD is legal and justified? If not, to what relief the workman is entitled to?"

3. Claim statement was filed by and on behalf of the claimant pleading that initially he was engaged as a daily wager Assistant Wireman by the Authority in February, 1981. Subsequently, he was taken on work charged establishment with effect from 06.01.1983. Vide Notification dated 26.09.1994, Government of NCT of Delhi placed services of 43 colonies under control and supervision of the Corporation. Work, in which the claimant was deployed by the Authority, was transferred to the Corporation. Hence, his services were also shown transferred to Corporation in May 1995. No written order was issued transferring his services to the Corporation. He filed a civil suit bearing No. 531 of 1995 before the Civil Judge, Delhi, which was dismissed on 05.08.2000. He preferred an appeal, which was dismissed by the Additional District Judge, Delhi on 26.03.2008. On 06.05.2008, he sent a representation to the Corporation seeking permission to join duties. His representation was responded to vide letter dated 06.06.2008 asking him to submit relieving order issued by the Authority, to enable him to join his duties. Such plea was uncalled for. He was not allowed to join duties by the Corporation, which act resulted into presumed termination of his services. He presents that action of the Corporation in terminating of his services is violative of provisions of section 25-F, 25-G and 25-H of the Industrial Disputes Act 1947 (in short the Act), Rules 76, 77 and 78 of the Industrial Disputes (Central) Rules 1957 are also violated. Claimant is unemployed since May 1995. He presents that his services may be reinstated with continuity and full back wages, besides cost of litigation as contemplated by sub section (7) of section 11 of the Act.

The Authority demurs his claim pleading that service of the claimant were transferred to the Corporation vide Order EO No. 38 of 19.05.1995. He was relieved from Electrical

Division No. 8 by the Authority on 20.05.1995. Since he refused to receive the transfer order, it was sent to his residential address at Village Bakner, Delhi, by registered post. The postal article was returned back by the postal authorities with the remarks, "Addressee was not available despite various visits". Claimant was relieved on 20.05.1995 to join duties with the Corporation. In such a situation, his claim is not maintainable.

5. The Corporation also disputes the claim projecting that when the claimant opted not to submit his joining report, he cannot be allowed to join his duties. Since he was not taken on rolls of the Corporation, it cannot be said that the Corporation terminated his services. *Vide* order dated 06.06.2008, he was called upon to submit his relieving orders, which he failed to do. Under these circumstances, it does not lie in the mouth of the claimant that his services were terminated by the Corporation. His claim, being devoid of merits, may be discarded.

6. On pleadings of the parties, following issues were settled:

- (i) Whether, on transfer to MCD, claimant was relieved from services of DDA on 20.05.1995?
- (ii) Whether claimant reported for duties with MCD on being relieved from DDA?
- (iii) As in terms of reference.

7. In order to discharge onus resting on him, the claimant examined himself.

8. During the course of his examination, it was suggested to the Authority that fresh relieving order may be issued in favour of the claimant as on date, without payment of any wages from the date of his transfer till the date of issuance of relieving orders and thereafter, the Corporation may allow him to join services with continuity and seniority. It was made clear that the claimant would not be entitled to any pay during the intervening period, *viz* from the date of his transfer till the date he would submit his joining report to the Corporation. Pursuant to the suggestion made, the Authority issued order No. EO 906 dated 22.10.1993, relieving the claimant to join his duties with the Corporation. For sake of convenience, contents of the said letter are reproduced thus:

'In compliance of the orders of the Presiding Officers, Central Government Industrial Tribunal-cum-Labour Court No. 1, Karkardooma, New Delhi, Shri Om Prakash, S/o Shri Mange Ram relieved *vide* order No. F. 5(1) ED-8/DDA/95/2281 dated 20.05.1995 pursuant to the EO No. 38 dated 19.05.1995 is hereby relieved today the 22nd day of October 2012 without payment of any wages from the date of his transfer till the date of issuance of relieving order. The text of the EO No. 38 dated 19.05.1995 and relieving order No. F. 5(1) ED-8/DDA/95/2281 dated 20.05.1995 shall remain unchanged.'

9. In continuation of the order referred above, the Authority issued order No. F5(1)EE/EI.Divn.8/DDA/2013 dated 25.10.2013, contents of which order are extracted thus:

'In continuation to this office EO 906 dated 22.10.2013 (copy enclosed), further Shri Om Prakash, wireman, S/o Shri Mange Ram is hereby directed to report 'Commissioner, North Delhi Municipal Corporation of Delhi, 4th Floor, SPM Civic Center, Jawahar Lal Nehru Marg, New Delhi-110 002' for further necessary action.

10. When copy of order dated 25.10.2013 was served on the claimant, he tendered his joining report with the Corporation on 30.10.2013. He presented himself for joining his duties and requested the Commissioner, North Delhi Municipal Corporation, to accept his joining report and assign duties to him. In view of the above changed circumstances, which took place on suggestion by this Tribunal, adjudication of above issues have become infructuous.

11. Since the claimant has joined his duties with the Corporation pursuant to order No. F5(1)/EE/EI.Divn.8/DDA/2013/3788 of 25.10.2013 and concedes to the proposition that he will not claim pay for the intervening period, *viz*. 20.05.1995 till 30.08.2013, it is evident that the dispute has reached a narrow campus. In view of facts detailed above, it is ordered that the Authority shall transmit all service records of the claimant, along with his last pay certificate, to the Corporation at the earliest and the Corporation shall fix his pay notionally for the intervening period, for which it shall not incur any financial liability. However, the claimant will have continuity of service with consequential relief of reckoning that service for the purpose of promotion, fixation of pay and retiral benefits. The Corporation shall assign him duties at the earliest so that his services are suitably availed. The questions, referred for adjudication, are answered accordingly. With these observations, an award is passed. It be sent to the appropriate Government for publication.

Date: 18.11.2013

R.K. YADAV, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 22.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार नॉर्थ दिल्ली म्युनिसिपल कारपोरेशन, न्यू दिल्ली के प्रबंधन में के संबद्ध नियोजकों और उनके कर्मचारों के बीच, (फील्ड अंडर सेक्शन 33-अ) अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, दिल्ली के पंचाट संदर्भ संख्या-(148/2013) को प्रकाशित करती है, जो केंद्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं. एल-42025/07/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 22.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi (Filed under Section 33-A in the matter of Complaint arising out of (Ref. No.148 of 2013) as shown in the Annexure, in the industrial dispute between the management of North Delhi Municipal Corporation, New Delhi and their workmen, received by the Central Government on 18/12/2013.

[No. L-42025/07/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, DELHI**

I.D. NO. 148/2013

Shri Jagesh Kumar
S/o Late Sh. Sukhram Singh,
R/o H.No. 3259, Aryapura,
Gali Lodhi Rajput,
Subzi Mandi, Delhi-110 007.Claimant

Versus

The Commissioner (North),
North Delhi Municipal Corporation,
SPM Bhawan, Civic Centre,
New Delhi.Management

AWARD

Shri Jagesh Kumar was working as mali/beldar on muster roll with North Delhi Municipal Corporation (in short the Corporation) from 26.09.1989. His services were terminated illegally without issuance of any notice on 02.01.1993. Feeling aggrieved by the act, the mali/beldar raised an industrial dispute before the Conciliation Officer on 24.05.2013. Conciliation proceedings were initiated. When no settlement could arrived at within a period of 45 days from the date of making an application before the Conciliation Officer, the mali/beldar filed a claim before this Tribunal under sub-section (2) of 2A of the Industrial Disputes Act, 1947 (in short the Act). Sub-section (2) of section 2A of the Act empowers him to approach this Tribunal directly, without his dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act, in case of discharge, dismissal, retrenchment or otherwise termination of his service. The dispute was registered as an industrial dispute, for adjudication.

2. Claim statement was filed by Shri Jagesh Kumar pleading that he was working as beldar on muster rolls

from 26.09.1989 to 24.04.1992. However his services were abruptly dispensed with on 02.01.1993 without issuance of any notice. His signatures were forcibly taken on blank papers, which were later on used against him. He had put in continuous service of 240 days. He raised an industrial dispute, which was referred for adjudication to a Labour Court constituted by NCT of Delhi, which was decided against the claimant. A review petition filed was also dismissed. He then filed a writ petition before the Hon'ble High Court, which was allowed with directions to the Labour Court to hear the parties again, check the record meticulously with precision and clarity and give specific finding on the issue. The case was reconsidered by the Labour Court and an award was passed against the workman. The claimant again preferred writ petition before the Hon'ble High Court, which was dismissed. LPA filed was also dismissed. Thereafter he raised a dispute before the Conciliation Officer, who entered into conciliation proceedings, but no settlement could arrive at. He claims that an award for reinstatement of his services with continuity and full back wages may be passed in his favour.

3. Arguments on maintainability of the dispute are heard at the bar. Shri D.S. Yadav, authorised representative, advanced arguments on behalf of the claimant. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

4. As record projects, dispute under reference was raised by the claimant, namely, Shri Jagesh Kumar under sub section (2) of section 2A of the Act. Provisions of section 2A of the Act contemplates that any dispute or difference between the workman and his employer connected with or arising out of discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is party to the dispute. Language, used in section 2A of the Act, very clearly states that in order to make a dispute an industrial dispute, it must be sponsored by a union or a considerable number of workmen in the establishment of the management. However, any dispute between a workman and his employer, which is connected with or arising out of his discharge, dismissal retrenchment or termination shall be deemed to be industrial dispute.

5. The term "industrial dispute" has been defined by sub-section (k) of section 2 of the Act to mean "any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person". The definition of "industrial dispute" referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz. (a) employers and employees, (b) employer and workmen,

or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with—(i) employment or non employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (iv) it should relate to an "industry".

6. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workman" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. I order, therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act. Here in the case, the management does not dispute that the claimant is workman within the meaning of clause(s) of Section 2 of the Act.

7. A long line of decisions, handed down by the Apex Court, had established that an individual dispute could not per se be an industrial dispute, but could become one if it was taken up by a trade union or a considerable number of workmen of the establishment. This position of law created hardship for individual workmen, who were discharged, dismissed, retrenched or whose services were otherwise terminated when they could not find support by a union or any appreciable number of workmen to espouse their cause. Section 2A was engrafted in the Act by the Amendment Act of 1965 and it has to be read as an extension of the definition of industrial dispute contained in clause (k) of section 2 of the Act. Thus by way of extension of definition of industrial dispute, by insertion of section 2A of the Act, the dispute of an individual workmen connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his service by his employer has been brought within the ambit of the Act.

8. Industrial workman has got a very restricted right to move an industrial court when his service conditions have been changed to his prejudice during pendency of an industrial dispute or he has been dismissed or discharged during such pendency, under section 33-A of the Act. He has a right to recover certain dues from his employer under section 33(c)(2) of the Act. An individual workman who had been thrown out of employment had to rely for redress only through aegis of the union or his co-workers where there was no union. Sometimes he found it hard to proceed

further or get the union to take up his cause. Besides, there are industries where so far no union have been formed. Workers, are still, in certain industries, unorganized. Enactment of section 2A of the Act was taken up by the Parliament solely with a view to modify the law to raise industrial disputes relating to discharge, dismissal, retrenchment or otherwise termination of services of the workmen.

9. Classification between workmen unaided by union or considerable number workmen and workman whose cause is espoused by a union or considerable number of workmen has been made by the legislature, when provisions of section 2A were brought on the Statute Book. Thus, it is evident that by way of extension of definition of industrial dispute relating to discharge, dismissal, retrenchment or termination of service of the workmen, Legislature provided remedy to the workmen who is unaided by a union or considerable number of workmen. Section 2A of the Act does not destroy the concept of industrial dispute and collective dispute and such concept still remains as a major class and in all other provisions of the Act. Consequently, it is evident that excepting the dispute relating to dispute of dismissal, discharge, retrenchment or otherwise termination of services of a workman, a dispute is to be espoused by the union or considerable number of workmen to reach the status of an industrial dispute.

10. Even in cases of dispute between a workman and his employer connected with or arising out of his discharge, dismissal, retrenchment or termination of his service, it has to pass through the procedure provided in the Act. For raising a dispute, an employee has to raise a demand on the employer and thereafter he has to raise the dispute before the Conciliation Officer, who had to enter in to the conciliation proceedings. In case conciliation proceedings fails, the Conciliation Officer submits his report to the appropriate Government. On consideration of the report, so submitted by the Conciliation Officer, the appropriate Government has to form an opinion that an industrial disputes exists or is apprehended and refer that dispute to an industrial adjudicator under sub-clause (c) or (d), as the case may be, of sub-section (1) of section 10 of the Act. Procedure, referred above, would take considerable time and an employee had to wait for the decision of the appropriate Government, making reference to an industrial adjudicator for adjudication of the dispute. With a view to do away with this hardship, Legislature, vide Amendment Act No 24 of 2010, inserted sub section (2) and (3) in section 2A and re-numbered original section as sub section (1) in order to enable the workman to approach an industrial adjudicator for adjudication of his dispute, without it being referred by the appropriate Government. For sake of convenience, provisions of sub-section (2) and (3) of section 2A of the Act are reproduced thus:

"(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may make an application direct to Labour Court or industrial Tribunal for adjudication of the dispute referred to therein after expiry of forty five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute and in receipt of such application, the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."

11. Provisions of sub section (2) of section 2A of the Act empowers a workman to move an application before an industrial adjudicator for adjudication of his dispute, after expiry of 45 days from the date he made such application before the Conciliation Officer. On receipt of such application, the industrial adjudicator shall have powers and jurisdiction to adjudicate the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with provisions of the Act. Thus, it is evident that before moving an application before an Industrial Adjudicator, the workman has to approach the Conciliation Officer for conciliation of his dispute. In case no settlement is arrived at or conciliation proceedings goes beyond a period of 45 days from the date the workman had moved the application to the Conciliation officer, he may approach the Industrial Adjudicator for adjudicate of his dispute, without being referred by the appropriate Government under the provisions of the Act. Consequently, it is evident that before approaching an Industrial Adjudicator, workman whose services have been discharged, dismissed, retrenched or terminated by his employer, shall have to approach the Conciliation Officer and wait for expiry of a period of 45 days, in case no settlement arrived between them. Obligation to approach the Conciliation Officer and allow him to enter into conciliation proceedings are mandatory. It is also obligatory on the workman to wait for a period of 45 days and only thereafter he can seek indulgence of an industrial adjudicator for adjudication of his dispute. In case he opts not to approach the Conciliation Officer or fails to wait for a period of 45 days from the date of moving his application, the Industrial Adjudicator will acquire no jurisdiction to entertain the dispute.

12. Bare perusal of sub section (3) of section 2A makes it clear that an application for adjudication of an industrial dispute, relating to discharge, dismissal, retrenchment or termination of his service can be moved by an employee before expiry of three years from the date of his discharge, dismissal, retrenchment or otherwise termination of service, as the case may be. As emerged out of the claim statement, services of the claimant was terminated on 02.01.1993. Subsequently, he raised a dispute before the conciliation officer for redressal of his grievances. Claimant projects that the Conciliation Officer had certified that he entered the conciliation proceedings on 24.5.13 and period of 45 days stood expired, vide his letter dated 27.9.2013.

13. Out of facts presented by the claimant, it emerged over the record that his services were disengaged by the management on 02.01.1993. Consequently, it is clear that the claimant projects a case of termination of his services by the management on 02.01.1993. For approaching this Tribunal, under provisions of sub-section (2) of section 2A of the Act, limitation of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service of an employee has been imposed by the legislature. Thus, it is apparent that the claimant could have approached this Tribunal under sub-section (2) of section 2A of the Act till 01.01.1996. As is evident, claim preferred is beyond the period of limitation. Under these circumstances, this Tribunal cannot invoke its jurisdiction for adjudication of the dispute.

14. Question for consideration comes as to whether a dispute can be filed afresh during the period when award dated 13.08.2008 subsists. As the facts highlight, the subsequent reference is between the same parties on the same facts. When award dated 13.08.2008 is in force, in respect to the industrial dispute, the claimant is barred from raising the dispute. Section 19(3) of the Act provides that an award of an Industrial adjudicator remains operating for a period of one year from the date on which it becomes enforceable. It can be terminated by any party bound by it by giving a notice as required by sub-section (6) of Section 19 of the Act. An award continues to be binding on the parties only as long as it remains in operation. Therefore, there is a statutory bar to the reference of an industrial dispute, which is the subject matter of an operative award so long as previous award is in force in respect of a certain industrial dispute. Those disputes cannot be referred as fresh to the industrial adjudicator by merely changing the phraseology of the dispute and the tribunal will not have jurisdiction to entertain the fresh reference in respect of those matters of dispute. In case precedents are needed then reference can be made to British India Corporation Ltd., (13 FJR 352) and Bangalore Woolen, Cotton and Silk

Mills Ltd., [1968(1) LLJ 555]. In view of the facts, referred above, it is crystal clear that during the currency of award dated 13.08.2008, the claimant cannot file the dispute afresh.

15. In view of these reasons, direct industrial dispute raised by the claimant is not maintainable at all. His claim is accordingly, brushed aside. An award is passed. It be sent to the appropriate Government for publication.

Dated : 25.11.2013

R.K. YADAV, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 23.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार म्युनिसिपल कारपोरेशन ऑफ दिल्ली, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या - 160/2012) को प्रकाशित करती है, जो केंद्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं एल-42012/40/2012-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 23.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 160/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the management of Municipal Corporation of Delhi, and their workmen, received by the Central Government on 18/12/2013.

[No.L-42012/40/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, DELHI**

I.D. NO. 160/2012

The General Secretary,
Nagar Nigam Karamchari Sangh,
Delhi Pradesh, P-2/624, Sultanpuri,
Delhi.

...Workman

Versus

The Commissioner,
Municipal Corporation of Delhi
Town Hall, Chandni Chowk,
Delhi — 110006.

...Management

AWARD

Shri Ramesh Chand, was initially engaged as daily wager mali by Municipal Corporation of Delhi (in short the Corporation). He was later on regularized as mali with effect from 01.04.1978. He raised a demand for grant of pay in pay scale meant for the post of choudhary, from the date of his appointment. His claim was rejected by the Corporation on the count that neither he was having requisite qualification nor passed the trade test for promotion as choudhary. He approached the Nagar Nigam Karamchari Sangh (in short the union) for redressal of his grievances. The union raised a dispute before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, so submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, *vide* order No. L-42012/40/2012-IR (DU) New Delhi dated 09.11.2012, with following terms:

"Whether action of the management of Municipal Corporation of Delhi (MCD) in denying the new pay scale of 'Chaudhary to the workman Shri Ramesh Chand, S/o late Shri Shankar Singh Mali, with effect from the date of appointment *i.e.* 01.01.1987 till date of retirement, *i.e.* 31.07.2007 is justified or not? If not, what relief the workman is entitled to and from which date?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, Shri Ramesh Chand opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Ramesh Chand by registered post on 03.12.2012, calling upon him to file claim statement before the Tribunal on or before 02.01.2013. This notice was sent to him through the union at P-2/624, Sultanpuri, Delhi, the address provided by the appropriate Government in order of reference. Neither the claimant nor the union responded to the notice, so sent.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to his by registered post on 02.01.2013 calling upon him to file claim statement before the Tribunal on 29.01.2013. Notice was again transmitted to the claimant by registered post on 31.01.2013 asking him to file his claim statement on or before 20.02.2013. Lastly, notice dated 22.02.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 22.03.2013. Neither the post articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore,

every presumption lies in favour of the fact that the above notices were served upon the claimant. Despite service of these notices, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

5. Since onus of the question, referred for adjudication, was on the Corporation, it was called upon to file its response to the reference order. In its response to the reference order, the Corporation projects that no notice of demand was served on it prior to raising of dispute, hence it has not acquired status of an industrial dispute. The Corporation further pleads that for want of espousal, dispute has not acquired character of an industrial dispute. It has also been claimed that the dispute has been raised at a belated stage, since the claimant superannuated on 31.07.2007 and no dispute was raised during his tenure of service. Claimant is not entitled to get new pay scale of choudhary with effect from 01.04.1978, the date when he was initially engaged as mali. His claim is not maintainable. It is liable to be dismissed being devoid of merits, pleads the Corporation. There is a prescribed Produced for promotion to the post of Chaudhary from the post of mali. i.e. there must be a sanctioned/vacant post of Chaudhary, the incumbent possesses requisite qualification and have passed trade test conducted by the Corporation. The claimant neither possessed the requisite qualification nor had ever appeared in any trade test. Shri Ramesh Chand never performed duties of Chaudhary. It has been projected that the claim is liable to be dismissed.

6. Arguments were heard at the bar. None came forward on behalf of the claimant to advance arguments. Shri Umesh Gupta, authorized representative, raised submissions on behalf of the Corporation. I have given my careful considerations to the arguments advanced at the bar and cautiously pursued the record. My findings on issues involved in the controversy are as follows:

7. Corporation contests the dispute on the count that no notice of demand was served on it prior to raising a dispute before the Conciliation Officer. These facts also remained uncontroversed. The object of the Industrial Disputes Act, 1947 (in the short the Act) is to provide workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of

employers and a bonafide labour union. Policy behind his is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an "Industrial dispute" is that it affects the right of the workmen as a class.

8. An industrial dispute comes into existence when the employer and the workman are at variance and the dispute/difference is connected with the employment or non-employment, terms of employment or with conditions of labour. In other words, dispute or difference arises when a demand is made by the workman on the employer and it is rejected by him and vice versa. In *Sindhu Resettlement Corporation Ltd.* [1968(1) LLJ 834], the Apex Court has held that mere demand, asking the appropriate Government to refer a dispute for adjudication, without being raised by the workmen with their employer, regarding such demand, cannot become an industrial dispute. Hence, an industrial dispute cannot be said to exist until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. In *Fedders Lloyd Corporation Pvt. Ltd.* (1970 Lab.I.C. 421), High Court of Delhi went a step ahead and held that "...demand by the workman must be raised first on the management and rejected by it, before an industrial dispute can be said to arise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejected the demand, is not sufficient to constitute an industrial dispute."

9. The above decision was followed by Orissa High Court in *Orissa Industries Pvt. Ltd.* (1976 Lab.I.C. 285) and Himachal Pradesh High Court in *Village Paper Pvt. Ltd.* (1993 Lab.I.C.99). However, the Apex Court in *Bombay Union of Journalists* [1961 (2) LLJ 436] had ruled that an industrial dispute must be in existence or apprehended on the date of reference. If therefore, a demand has been made by the workman and it has been rejected by the employer before the date of reference, whether direct or through the Conciliation Officer, it would constitute an industrial dispute. In *Shambhunath Goyal* [1978 (1) LLJ 484], the Apex Court appreciated facts that the workman had not made a formal demand for his reinstatement in service. However, he had contested his dismissal before the Enquiry Officer and claimed reinstatement. Against the findings of the Enquiry Officer, he preferred an appeal to the Appellate Authority, claiming reinstatement on the ground that his dismissal was bad in law. Then again, he claimed reinstatement before the Conciliation Officer in the course of conciliation proceedings, which was contested by the employer. Appreciating all these facts, the Apex Court inferred that there was impeccable evidence that the workman had persistently demanded reinstatement, rejection of which brought an industrial dispute into existence.

10. In *New Delhi Tailor Mazdoor Union* [1979(39) FLT 195], High Court of Delhi noted that *Shambhunath Goyal*

had not overruled Sindhu Resettlement Pvt. Ltd. But it had distinguished it on facts. It was also pointed out that decision of three Judges bench in Sindhu Resettlement Pvt. Ltd. could not have been overruled by two Judge bench in Shambunath Goyal. The High Court concluded that decision in Sindhu Resettlement Pvt. Ltd., in case of any conflict between the two decisions, must prevail. The High Court held that making of the demand by the workman on the management was *sine qua non* for giving rise to an industrial dispute.

11. The High Court of Madras in Management of Needle Industries [1986(1) LLJ 405] has held that dispute or difference between management and the workman, automatically arises when the workman is dismissed from service. His dismissal per se creates a dispute or difference between the management and the workman. The Court further observed that "it is nowhere stipulated in the Act, particular in section 2(k), that existence of the dispute as such is not enough but then there should be a demand by the workman on the management to give rise to an industrial dispute". However, this decision appears to be inconsistent with the ratio of decision in Bombay Union of Journalists (supra) and Sindhu Resettlement (supra). No doubt, for existence of an industrial dispute, there should be a demand by the workman and refusal to grant it by the management. However, a demand should be raised, cannot be a legal notion of fixity and rigidity. Grievances of the workman and demand for its redressal must be communicated to the management. Means and mechanism of the communication adopted are not matters of much significance, so long as demand is that of the workman and it reaches the management. Reference can be made to the precedent in Ram Krishna Mills Coimbatore Ltd. [1984(2) LLJ 259].

12. The Act nowhere contemplates that the industrial dispute can come into existence in any particular, specific or prescribed manner nor there is any particular or prescribed manner in which refusal should be communicated. For an industrial dispute to come into existence written claim is not *sine qua non*. To read into the definition, requirement of written demand for bringing an industrial dispute into existence would tantamount to rewriting the section, announced the Apex Court in Shambunath Goyal (supra). In other words, oral demand and its rejection will as much bring into existence an industrial dispute, as written one. If facts and circumstances of the case show that the workman had been making a demand, which the management had been refusing to grant, it can be said that there was an industrial dispute between the parties.

13. Since the claimant had not come forward to project that demand notice was served on the Corporation, under these circumstances, stand taken by the Corporation is to be believed. The Corporation projects that no notice of demand was served on it, before industrial dispute was raised before the Conciliation Officer. Thus, it is emerging

over the record that it has not been established that demand was raised on the Corporation, which was rejected by it and as such, dispute has not acquired status of an industrial dispute.

14. The Corporation for further argued that the dispute has not acquired status of an industrial dispute for want of espousal by the union or considerable number of the workmen in its establishment. For an answer to this proposition, definition of the term 'industrial dispute' is to be construed Section 2(k) of the Industrial Disputes Act, 1947 (in short the Act), defines the term 'industrial dispute', which definition is extracted thus:

"2(k) "Industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

15. The definition of "industrial dispute" referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz. (a) employers and employees, (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with—(i) employment or non-employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

16. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workman" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employees and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act. The Corporation does not dispute status of the claimant, being a workman within the meaning of section 2(s) of the Act.

17. The Apex Court put gloss on the definition of "industrial dispute" in Dimakuchi Tea Estate [1958 (1) LLJ 500] and ruled that the expression "any person" in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real

dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking "workman" within the meaning of the Act, but must be one in whose employment, non employment, terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

"We also agree with the expression "any person" is not co-extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances."

18. In *Kyas Construction Company (Pvt) Ltd.* [1958 (2) LLJ 660], the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression "industrial dispute" is wide enough to cater a dispute raised by the employer's workman with regard to non-employment of others, who may not be employed as workman at the relevant time. The Apex Court in *Bombay Union of Journalist* [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a

union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co-workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

19. The expression "industrial disputes" has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In *Raghu Nath Gopal Patvardhan* [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it cannot per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In *Dharampal Prem Chand* [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of *Indian Express Newspaper (Pvt.) Limited* [1970 (1) LLJ 132]. However, in *Western India Match Company* [1970 (II) LLJ 256], the Apex Court referred the precedent in *Dimakuchi Tea Estate's case* [1958 (1) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest".

20. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the Tribunal, it

cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in *P. Somasundramaran* [1970 (1) LLJ 558].

21. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In *Pardeep Lamp Works* [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by large number of co workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

22. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in *Gammon India Limited* [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In order words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause

occurs. Reference can be made to a precedent in *Western India Match Co. Ltd.* [1970 (II) LLJ 256].

23. Here in the case, not even an iota of facts are brought over the record to the effect that the union took up the cause of the claimant as their own. It is also not shown that the members of the union had shown their collective will in favour of the cause of the claimant. Thus it is evident that there is a complete vacuum of facts to the effect that the union espoused the cause of the claimant. Resultantly there is no material to conclude to the effect that the dispute acquired status of an industrial dispute. The reference is liable to be answered against the claimant on that score.

24. The Corporation agitates that a stale claim has been referred for adjudication. Though pay for the post of Choudhary has been claimed since the date of appointment of the claimant, yet the dispute was raised in the year 2012. The Corporation asserts that the dispute was not raised within a reasonable time. The Corporation wants this Tribunal to discard the claim of *Shri Ramesh Chand*, projecting it to be a belated one. Section 10(1) of the Act does not prescribe any period of limitation for making reference of the dispute for adjudication. The words 'at any time' used in sub section (1) of Section 10 of Act does not admit of any limitation in making an order of reference. Law of limitation, which might bar any Civil Court from giving remedy in respect of lawful rights, cannot be applied by Industrial Tribunals. However, policy of industrial adjudication is that very stale claim should not be generally encouraged or allowed unless there is satisfactory explanation for delay. In *Shalimar Works Ltd.* [1959(2) LLJ 26], Apex Court pointed out that though there is no limitation prescribed in making reference of the dispute to Industrial Tribunal. Even so, it is only reasonable that disputes should be referred as soon as possible after having arisen and on failure of conciliation proceedings. In *Western India Match Company* [1970(2) LLJ 256] Apex Court observed that in exercising its discretion, Government will take into account time which has lapsed between its earlier decision and the date when it decides to consider it in the interest of justice and industrial peace to make the reference adjudication. Same view was taken in *Mahabir Jute Mills Ltd.* [1975 (2) LLJ 326]. In *Gurman Singh* [2000(1) LLJ 1080] Industrial Adjudicator dismissed the reference on the ground that there was delay of 8 years in raising the dispute, which delay was condoned by the Apex Court and it was ordered that the workman would not be entitled to any back wages for the period of 8 years but would be entitled to 50% of the wages from the date it raised the dispute till the date of his reinstatement. In *Prahalad Singh* (2000(2) LLJ 1653), the Apex Court approved the award of the Tribunal in not granting any relief to the workman who preferred the claim after a period of 13 years without any

reasonable or justifiable grounds. From the above decision, it can be said that the law relating to delay in raising or reference of dispute is bereft of any principles, which can be easily comprehended by the litigants.

25. It would be considered as to whether a state claim has been referred for adjudication by the appropriate Government. As projected above, the claimant joined on 01.04.1978 and superannuated on 31.07.2007. He approached the Conciliation Officer in the year 2012. Consequently, it is emerging over the record that for more than 24 years the claimant was sleeping and suddenly he came out of slumbers and raised an industrial dispute. In these circumstances spell of 24 years, without any action on the part of the claimant makes his claim stale. I find that the claimant was not justified to agitate his dispute after such a long spell of time. He indulged in leisure litigation, when he raised a dispute before the Conciliation Officer. Delay in raising the dispute certainly creates hindrance against the claimant, for grant of any relief to him.

26. For claim of new pay scale of Choudhary, it was incumbent upon the claimant to establish that he had performed duties of Choudhary. As projected by the Corporation in the written statement, Shri Ramesh Chand never performed duties of Choudhary and no office order was ever issued by the Corporation assigning him duties of Choudhary. In view of these facts, Shri Ramesh Chand is not entitled to raise a claim for new pay scale Choudhary. Resultantly, it is concluded that action of the Corporation in denying the new pay scale of Choudhary to the claimant is found to be justified. Shri Ramesh Chand is not entitled to any relief on factual proposition too.

27. The foregoing reasons make me to conclude that Shri Ramesh Chand is not entitled to new pay scale of choudhary. Action of the Corporation in denying new pay scale of Choudhary to Shri Ramesh Chand is found to be justified. No relief can be granted in favour of Shri Ramesh Chand. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Date: 28.10.2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, दिनांक 18 दिसम्बर, 2013

कांआ 24.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केन्द्रीय रेशम बोर्ड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायलय, बंगलूर के पंचाट (संदर्भ संख्या 151/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं एल-42011/115/2007-आई आर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th December, 2013

S.O. 24.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 23/12/2013.

[No. L-42011/115/2007-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1st April, 2013

Present : Shri S.N. Navalgund, Presiding Officer

CR No. 151/2007

I Party

The President,
Central Silk Board
Employees Union,
C/o Manjunatha Stores,
3rd Main Pipeline West,
Kasturba Nagar,
Mysore Road,

II Party

The Member Secretary,
Central Silk Board,
CSB Complex,
BTM Layout,
Madiwala,

BANGALORE-560026

BANGALORE-560068

APPEARANCES

I Party : Shri V.S. Naik, Advocate

II Party : Shri N.S. Narasimha Swamy,
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of sub-section (1) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-42011/115/2007-IR(DU) dated 07.11.2007 for adjudication on the following schedule:

SCHEDULE

"Whether the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified? If yes, to what relief the workmen are entitled to?"

2. On receipt of the reference registering it in C R No. 151/2007 on the file of this court when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party claim statement came to be filed on 22.02.2008, whereas the counter statement of the II Party came to be filed on 12.10.2010.

3. In the claim statement it is claimed the Central Silk Board (hereinafter referred as II Party) running extensive centres and their sub-units, silk testing and conditioning House, textile testing centres, demonstration-cum-Training centres (for reeling and spinning), Seed production centres, Basic Seed Farm etc., engaging the casual workers to work in the said units and after they put in certain years of service absorb them as Time Scale Farm Workers (TSFWs) and since from the inception their superannuation age is fixed at 55 years and inspite of the age of retirement of its permanent employees enhanced from 55 to 58 years and then from 58 to 60 years as per the pay commission recommendations, inspite of several requests and demands no enhancement being made in the retirement age of the TSFWs a demand was put forward to enhance their age of retirement from 55 to 60 years on par with regular employees working in the board and as there was no proper response the I Party Union raised a dispute before the Regional Labour Commissioner in No. 8(69)/99-B3 and as II party which undertake to took a proper decision in spite of several discussions failed to take a positive decision ultimately the Regional Labour Commissioner submitted his failure report, the Central Government made this reference for adjudication. It is also stated in the claim statement in several statutory bodies constituted by the Central Government like National Seeds Corporation Limited, Indian Institute of Horticulture Research etc., the age of retirement of casual labourers enhanced to 60 years as per the Central Pay Commission recommendations refusal on the part of the II party to enhance the retirement age of TSFWs from 55 years to 60 years is prejudicial to them and they are entitled for enhancement of their retirement age from 55 to 60 years. *Inter-alia*, in the counter statement the demand of the I party is opposed on the ground that fixation of retirement age being a policy decision this court has no jurisdiction to adjudicate on the same and that since II party is operating under Ministry of Textiles, Government of India engaging workers for various manual nature of work under CSB and they are called as Casual or Time Scale Farm Workers and that in August 1970 a settlement was entered into between one of the Research Institute (Central Sericulture and Research Training Institute, CSB, Mysore) and the then existing Labour Union and as per the said settlement the retirement age of casual and time scale farm workers being fixed at 55 years and same is continued uptill now, there is no justification in asking for enhancement of the retirement age from 55 to 60 years. It is further

contended the casual workers and TSFWs being not the Permanent/Regular employees of the II Party they cannot claim the benefit extended to the regular employees with regard to their retirement age on par with the Central Government Employees. Thus it is contended that the demand of the I Party Union being not legal and justified.

4. After completion of the pleadings when the learned advocate appearing for the I party was called upon to lead evidence, he filed the affidavit of Ravish Kondancha, treasurer of the CSB Employees Union (herein after referred as I Party) and examining him on oath as WW 1 got exhibited Original Memorandum dated 19.11.1989; copy of the Representation submitted by the CSB Employees Union dated 6.10.1999 and 13.10.1999; copy of the Representation submitted by the CSB Employees Union dated 19.1.2000; copy of the circular dated 28.07.1998 issued by the National Seeds Corporation Limited; copy of the Circular dated 05.06.1991 issued by the Indian Council of Agricultural research; Original Notice dated 10.05.2011; copy of the workmen appointment, Pay and Allowances regulations 1988 of National Dairy Development Board; attested copy of a study on Age of Superannuation of Central Government Employees in Institute of Applied Man Power research; copy of letter dated 04.11.2010 addressed by the II Party to the Ministry of Textiles and letter dated 10.02.2011 given on RTI Application and copy of the letter dated 10.11.2011 by the I Party Union to the Ministry of Textiles as Ex W-1 to Ex W-11 and in his cross-examination by the learned advocate appearing for the II Party copy of the letter dated 08.08.2012 issued by the Ministry of Textiles, New Delhi to the II Party got marked as Ex M-1. *Inter-alia*, the learned advocate appearing for the II party while filing the affidavit of Shri A.N. Yadhunath Rao, Assistant Director examining him on oath as MW 1 got exhibited copy of the agreement between the CSRTI Union and the II Party management dated 01.08.1970 as Ex M-2 and in his cross-examination the learned advocate appearing for the I party got exhibited copy of report of committee constituted during 2005 for adopting temporary status scheme of 1993 as Ex W-12.

5. With the above pleadings and evidence placed on record by both the sides, the arguments addressed by both the sides were heard.

6. On appreciation of the pleadings, oral and documentary evidence placed on record by both the sides in the light of the arguments addressed by the learned advocates, I have arrived at conclusion the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers being legal and justified and that they are entitle for enhancement of their retirement age from 55 years to 60 years for the following reasons:

Reasons

7. Admittedly, the services of the TSFWs are not regularized and their claim in that respect being denied by this court they have approached the Hon'ble High Court of Karnataka in W.P. No. 26513/2007 and W P No. 19130/2007 and if at all their services were regularized as per their claim pending in their Writ Petition their age of superannuation would have been automatically enhanced to 60 years and there would have been no necessity to proceed with this reference. Only because the present age of retirement of TSFWs is 55 years as per the settlement/agreement it is not a ground to reject their claim for enhancement of the retirement age to 60 years. As rightly urged on behalf of the I Party workmen the II Party itself in its letter addressed to Joint Secretary (Silk), Ministry of Textiles dated 04.11.2010 marked as Ex W-9 having unequivocally stated:

"The Casual Labourers/Farm Workers working in other autonomous bodies like coffee Board, Spices Board IIHR and National Seeds Corporation Limited, etc., have fixed the retirement age of their Casual Labourers/Farm Workers at 58 years/60 years. The copies of replies received from the said organizations are enclosed herewith for ready reference. It is pertinent to state that there is no other organization found to have fixed the retirement age at 55 years for such category of workers. It is also relevant to mention that the Farm Workers of CSB are covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and are contributing towards EPF and other benefits under the said act. The said Act apart from providing EPF benefits to its subscribers, also provides for payment of monthly Pension and also Family Pension to the subscribers/their nominees based on the qualifying service, rate of contribution etc. The monthly Pension under the said Act becomes payable at a subscriber on attaining the age of 58 years. If a subscriber opts for pension at the age of 55 years, he will get lesser pension or alternatively a certificate giving commitment to the subscriber to pay the pension from 58th years in which case he will not get any pension from 55th to 58th year. In view of the these statutory provisions, our Farm Workers are deprived of pension immediately on their superannuation at the age of 55 years or they will have to be satisfied with lesser rate of pension. In these circumstances, it is just and reasonable that their age of retirement is enhanced to 58 years. The pendency of the aforesaid case does not come in the way of consideration of this proposal by the Ministry and in case the ministry considers this proposal, the Board can seek dismissal of the Central Reference as settled. The financial implication of this account works out to approximately Rs. 2.05 crores per year."

8. It is a clear admission the age of the retirement of such type of workers in other similar organisations are raised to 58 and 60 years there are no reasons for the

II party to disown their own recommendations or to refuse the claim of the I Party Union. When this recommendations was made to the Textile Ministry, the Textile Ministry without disputing this position in its reply dated 08.08.2012 copy of which is produced at Ex M-1 while agreeing to enhance the retirement age of TSFWs from 55 years to 58 years *w.e.f.* 16.07.2012 with certain other conditions imposed a condition at clause (d) that the TSFWs and their Unions shall withdraw all the cases filed in different courts for grant of temporary status and undertake not to raise these issues any further or claim temporary status in future which clause is not accepted by I Party. Thereby the II Party as well as its controlling Ministry practically agreed the demand for enhancement of the age being justified but unnecessarily insisted the Union and the TSFWs to withdraw all cases filed in different court and to undertake not to raise such issues any further or claim temporary status in future is unreasonable and they should allow such demand of workmen to be decided by the appropriate/competent courts before which such matters are pending.

9. It was vehemently argued by the learned advocate appearing for the II party that when the Union Representing the casual labourers and TSFWs working in the II Party by way of settlement agreed the age of superannuation is to be 55 years, unless the same is duly cancelled their demand for enhancement of superannuation age of 60 years is untenable. The alleged agreement relied upon by the learned advocate appearing for the II Party is produced at Ex. M-2. On entire reading of the agreement there is no specific clause as to the superannuation age but only under clause (2) of the agreement with regard to the strength of the labourers to be given the wage scale benefits shall be restricted to 75 in number and that the initial encadrement will be on the basis of strict seniority from among those within the age of superannuation, referred to as 55 years. The said clause in the agreement is as under:

"Clause 2: It was also agreed upon that the permanent strength of the labourers to be given the above wage scale benefits will be restricted to seventy five (75) in number (excluding watch and ward staff). The initial encadrement will be on the basis of strict seniority from among those within the age of superannuation namely 55 years."

10. Since in the year 1970 the age of the Superannuation of Regular Employees of II Party par with the Central Government Employees was also 55 years the superannuation age of these workmen must have also been referred as 55 years in Ex. M-2, therefore, on this ground also when as per the recommendations of the Central Pay Commission from time to time the superannuation age of the regular employees of the II Party have been enhanced and as per the recommendations of the 5th pay Commission the enhancement of regular employees of the II Party have been raised from 58 years to 60 years for the same benefit the I Party workmen are also entitled to.

11. The learned advocate appearing for the II Party while referring to the certain admissions in the Cross-examination of WW1 the nature of job of TSFWs being that of a casual labourer involving physical labour urged that such workmen cannot work after attaining the age of 55 years as such also their claim for enhancement of age of superannuation from 55 years to 60 years is not justified. With due respect to the learned advocate appearing for the II Party there is no evidence that the efficiency of a physical labourer in these days will be diminished after attaining the age of 55 years comparative to the employees working sitting on the chairs. On the other hand in my opinion the health of a worker involving a physical labour will be stronger/healthier comparative to the employees working sitting on the chairs which is sedentary. In the upshot of the above discussion, I arrive at the conclusion the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified and that they are entitle to enhancement of superannuation age from 52 years to 60 years. In the result, I pass the following Order:

ORDER

The reference is allowed holding that the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified and that they are entitle to enhancement of their retirement age from 55 years to 60 years.

(Dictated to UDC, transcribed by him, corrected and signed by me on 1st April 2013)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 25.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्यूनिकेशन, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या (143/98) को प्रकाशित करती है, जो केंद्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं एल-40012/2/98-आईआर (डी०यू०)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 25.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 143/98) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Deptt. of Telecommunication,

Bhopal and their workmen, received by the Central Government on 18/12/2013.

[No. L-40012/2/98-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/143/98

Presiding Officer : SHRI R.B. PATLE

Shri Ramswaroop Maurya,
Raghunanadan Prasad Maurya,
Laxmiganj Gallamandi,
Koti No. 126, Barkhedi,
Bhopal

....Workman

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
M.P. Circle,
Bhopal

....Management

AWARD

(Passed on this 1st day of October-2013)

1. As per letter dated 20-7-1998 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/2/98/IR(DU). The dispute under reference relates to:

"Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Ram Swaroop Maurya *w.e.f.* May 88 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to parties. Ist Party workman filed statement of claim at Page 2/1 to 2/3. The case of Ist Party workman is that he was working on muster roll under the supervision of the officers of IInd party from 1984. He was working under Junior Telecom Engineer, Shahapur, Bhopal. In 1984, he worked for 183 days, 1985 for 221 days, 1987 for 77 days, 1988 for 307 days, 1989 for 365 days & 1990 for 120 days. That the work was started in ACG-17 in place of muster roll as per order of the respondent management. That he was continuously working with the satisfaction of his superiors. His service record was unblemished. He was required to work as per directions given by Chief General Manager, Telecommunication, Bhopal. That his services were discontinued in May 1988 without issuing notice, he was

not given any opportunity before termination of his services. He had completed 240 days continuous service in the preceding calendar year. He was entitled to be regularized in service. After his termination, new hands were allowed to work. That in many cases, Tribunal issued directions for regularization of the persons not to terminate services of the employees. He claimed that as he had completed 240 days service, he is entitled for regularization. On such grounds, workman prayed for his reinstatement with consequential benefits.

3. Management of IInd Party filed Written Statement at Page 4/1 to 4/2. The claim of workman is denied. That the workman was engaged purely as casual labour. His service was restricted to each working day commencing at morning till evening. The services of casual labours are covered by the policy covered by the deptt. as per existing requirement. It is denied that workman was terminated in May 1988, IInd Party submits that services of workman were discontinued from 2-5-90. He was paid one month's wages *i.e.* Rs. 1035 and 1550 towards retrenchment compensation under section 25 of I.D. Act. That the workman was found continuously absent for a period of 25 months from September 1985 to Sept. 1987. The break period of 25 months could not be condoned by Competent Authority as the period was exceeding 12 months. Workman was restricted by the Deptt. It is submitted that workman has not completed 240 days continuous service. There is no question of regularization of service. Order dated 20-5-95 passed CAT is not applicable in the case. That the workman on his own accord failed to render service. His absence from service could not be condoned. His services automatically came to an end. On such ground, IInd Party submits that the workman is not entitled to relief prayed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Ram Swaroop Maurya *w.e.f.* May 88 is legal? In Affirmative
- (ii) If not, what relief the workman is entitled to?" Relief prayed by workman is rejected.

REASONS

5. Though the workman is challenging termination of his services rendered as per the terms of reference, statement of claim is filed. However workman filed affidavit of his evidence but he remained absent and failed to make available for cross-examination. His evidence was closed on 4-5-2010 observing that his evidence shall not be considered.

6. Management filed affidavit of evidence of its witness Shri A.K. Balpande, He has stated in his affidavit that the workman was found continuously absent for 25 months from Sept.-85 to Sept. 86. That workman was paid one months pay Rs. 1035 and retrenchment compensation Rs. 1052. The evidence of management's witness remained unchallenged as workman remained absent and failed to cross-examine the witness of the management. Thus the evidence of workman cannot be considered and he failed to remain present for his cross-examination. The management's witness was not cross-examined. I find no reason to discard evidence of management's witness therefore termination of services of workman cannot be said illegal. For above reasons I record my finding in Point No. 1 in Affirmative.

7. In the result awarded is passed as under:—

- (1) Action of the management of Chief General Manager, Telecom in terminating the services of Shri Ram Swaroop Maurya *w.e.f.* May 88 is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 26.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जिला अभियंता दूरसंचार, राजगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/44/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/302/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 26.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CGIT/LC/44/2002) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom District Engineer, Rajgarh and their workman, which was received by the Central Government on 19/12/2013.

[No. L-40012/302/2001-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/44/2002

SHRI R.B. PATLE, Presiding Officer

Shri Mohd Raiz Khan,
C/o Abdul Matten,
Vill: Udhankhedhi,
Tehsil Sarangpur, Biaora,
Rajgarh

...Workman

Versus

Telecom District Engineer,
O/O the TDE,
Rajgarh, At Biaora,
Rajgarh

....Management

AWARD

(Passed on this 13th day of November 2013)

1. As per letter dated 25.2.2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/302/2001-IR (DU). The dispute under reference relates to:

"Whether the action of the management of Telecom Distt. Engineer, Biaora, Distt. Rajgarh in terminating the services of Shri Mohd. Raiz Khan S/o Shri Abdul Rasheed Khan *w.e.f.* September 2000 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist Party workman submitted Statement of Claim at Page 2/1 to 2/2. The case of Ist Party is that he was employed as casual mazdoor by IInd Party. He had worked for more than 240 days prior to his termination. He was not paid retrenchment compensation. Therefore his termination is illegal. On such ground, workman prayed for his reinstatement with consequential benefits.

3. IInd Party filed Written Statement. IInd Party denied that workman was never engaged by the management. There is no question of terminating his services. That there was no question of completing 240 days service by the workman. There was no question of payment of retrenchment compensation as workman was never engaged by the IInd Party. On such ground, IInd Party prays for rejection of the claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Telecom Distt. Engineer, Biaora, Distt. Rajgarh in terminating the services of Shri Mohd. Raiz Khan S/o Shri Abdul Rasheed Khan *w.e.f.* September 2000 is justified? In Affirmative

- (ii) If not, what relief the workman is entitled to? Relief prayed by workman is rejected.

REASONS

5. Though in Statement of claim, the workman is challenging termination of his services on the ground that retrenchment compensation was not paid to him. That he had completed 240 days service prior to his termination. IInd Party denied above contentions of workman. Workman has not adduced any evidence. Evidence of workman was closed on 31.5.2011. Management filed affidavit of evidence of Ramzan Khan. The witness of the management had denied that workman was engaged by the management. That there was no question of completing 240 days service. The evidence of management's witness remained unchallenged. I do not find reason to disbelieve evidence of management's witness as workman has not adduced his evidence to establish that he was working for more than 240 days with the IInd Party. Workman is not covered under Section 25(B) of I.D. Act is not entitled to protection of Section 25-F of I.D. Act. The termination cannot be said illegal. Therefore I record my finding in Point No. 1 in Affirmative.

6. In the result, award is passed as under:—

- (1) Action of the management of Telecom Distt. Engineer, Biaora, Distt. Rajgarh in terminating the services of Shri Mohd. Raiz Khan S/o Shri Abdul Rasheed Khan *w.e.f.* September 2000 is proper.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 27.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य जनरल मैनेजर, हेवी वाटर प्लांट के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 4/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-42011/64/2010-आई आर (डी यू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 27.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 4/2011) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Chief General Manager, Heavy Water Plant, Khammam

and their workman, which was received by the Central Government on 19/12/2013.

[No. L-42011/64/2010-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT: SMT. M. VIJAYALAKSHMI, Presiding
Officer

Dated the 5th day of June, 2013

INDUSTRIAL DISPUTE NO. 4/2011

BETWEEN:

Sri Syed Khasim Hussain,
(Rep. of workman)
Ex. Scientific Asstt. 'D',
H.No. 11-2-71, Sree Nagar Colony,
New Palvoncha (P.O.)-507115.
Khammam District.Petitioner

AND

The Chief General Manager,
M/s. Heavy Water Plant (Manuguru).
Aswapuram-507116.
Khammam District.Respondent

APPEARANCES:

For the Petitioner : Sri M.V.L. Narasaiah, Advocate

For the Respondent : None

AWARD

The Government of India, Ministry of Labour by its Order No. L-42011/64/2010-IR(DU) dated 31/1/2011 referred the following dispute under section 10(1)(d) of the Act, 1947 for adjudication to this Tribunal between the management of M/s. Heavy Water Plant and their workmen. The reference is,

SCHEDULE

"Whether the demand of Shri N. Narasimha Chary, contract labour employed by H.W.P.(M) SC, BC and other Land Loosers Contract Labour Cooperative Society Ltd., Aswapuram for payment of Bonus as per provisions of the Payment of Bonus Act, 1965, is justified? If so, what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 4/2011 and notices were issued to the parties.

2. Case stands posted for filing claim statement and documents by the Petitioner union.

3. Petitioner union called absent and there is no representation. Claim statement and documents are not filed inspite of giving fair opportunity. Petitioner union is not taking interest in the proceedings though the matter is pending since 2011. Taking that Petitioner union is not interested in the proceedings of the case, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 5th day of June, 2013.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined for the
Petitioner	Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 28.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, भारतीय सांख्यिकी संस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 5/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल० 42012/31/2006-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 28.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2007) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, Indian Statistical Institute, Kolkata and their workman, which was received by the Central Government on 19/12/2013.

[No. L-42012/31/2006-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****PRESENT:** Smt. M. VIJAYALAKSHMI, Presiding Officer

Dated the 7th day of June, 2013

INDUSTRIAL DISPUTE No. 5/2007**BETWEEN:**

1. Smt. C. Samudramma
W/o Sri C. Jangaiah,
R/o 2-3-456, Raghunathanagar,
Amberpet, Hyderabad.
2. Smt. A. Pushpamma,
W/o Sri A. Ashok Kumar,
R/o H.No. 29, Osmania University,
Camp No. 5, Hyderabad

....Petitioner

AND

1. The Director,
Indian Statistical Institute,
203, BT Road,
Kolkata - 700035.
2. The Executive Incharge,
Indian Statistical Institute,
Street No. 8, Habsiguda,
Hyderabad.

....Respondents

APPEARANCES:

- For the Petitioner : M/s. G. Ravi Mohan, Ch.
Satyanarayana, G Naresh
Kumar, Vikas Sharma & G Pavan
Kumar, Advocates
- For the Respondent : M/s. A.K. Jayaprakash Roa, M.
Govind & Vekatesh Dixit,
Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-42012/31/2006-IR(DU) dated 8.12.2006 referred the following dispute under section 10(1) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Indian Statistical Institute and their workwomen. The reference is,

"Whether the action of the management of M/s. Indian Statistical Institute, Hyderabad (A.P.) in denying regularization of services of Smt. C. Samudramma and Smt. A. Pushpamma, Casual Workers, is proper and justified? If not, to what relief the said workers are entitled and from what date?"

The reference is numbered in this Tribunal as I.D. No. 5/2007 and notices were issued to the parties concerned.

2. Petitioners filed claim statement. Petitioners did not file any document. Respondents filed counter and stated that they have no documents to file.

3. The case stands posted for evidence of Petitioners, Petitioners called absent and there is no representation since long time as such, their right to adduce evidence was forfeited. Respondent reported no evidence.

4. It is reported by the Respondent counsel on 23.4.2013 that 1st Petitioner expired, but no Legal Representatives are brought on record and further 2nd Petitioner has not adduced any evidence, which shows that he is not interested in proceedings.

5. In spite of giving fair opportunity 2nd Petitioner is called absent and there is no representation. The legal representative if any of the deceased 1st Petitioner also is/are not taking interest in the proceedings. In the given circumstances, considering that 2nd Petitioner and the legal representative(s) if any of the 1st Petitioner are not interested in the proceedings, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 7th day of June, 2013.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner
NIL

Documents marked for the Respondent
NIL

नई दिल्ली, 19 दिसम्बर, 2013

कांआ 29.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम. इ. एस. भट्टिडा कंटेनमेंट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट संदर्भ संख्या (79, 80, 81, 82, 83, 85/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-12-2013 को प्राप्त हुआ था।

[सं एल-14012/59/2004-आईआर (डीयू),
सं एल-14012/58/2004-आईआर (डीयू),
सं एल-14012/57/2004-आईआर (डीयू),
सं एल-14012/56/2004-आईआर (डीयू),
सं एल-14012/55/2004-आईआर (डीयू),
सं एल-14012/53/2004-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 29.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2005, 80/2005, 81/2005, 82/2005, 83/2005 and 85/2005) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of MES Bathinda Cantt., and their workmen, received by the Central Government on 18/12/2013.

[No.L-14012/59/2004 - IR(DU),
No.L-14012/58/2004 - IR(DU),
No.L-14012/57/2004 - IR(DU),
No.L-14012/56/2004 - IR(DU),
No.L-14012/55/2004 - IR(DU),
No.L-14012/53/2004 - IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: Sri A. K. Rastogi, Presiding Officer

Case No. I.D. No. 79/2005

Registered on 20.4.2005

Sh. Sukhpal Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

I.D. No. 80/2005

Registered on 20.4.2005

Sh. Dilbar Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

I.D. No. 81/2005

Registered on 20.4.2005

Sh. Darshan Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

I.D. No. 82/2005

Registered on 20.4.2005

Sh. Major Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

I.D. No. 83/2005

Registered on 20.4.2005

Sh. Sohan Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

I.D. No. 85/2005

Registered on 20.4.2005

Sh. Manjit Singh C/o Sh. Dinesh Kumar, #431,
Sector 15/A, Chandigarh.

Versus

The Garrison Engineer (Utility), MES Bathinda Cantt.,
Bathinda ...Respondent

APPEARANCES:

For the workman - Sh. Chaman Lal, Adv.
For the management - Sh. K. K. Thakur, Adv.

AWARD

Passed on 24.7.2013

Central Government *vide* Order No. L-14012/59/2004 [IR(DU)], L-14012/58/2004 [IR(DU)], L-14012/57/2004 [IR(DU)], L-14012/56/2004 [IR(DU)], L-14012/55/2004 [IR(DU)] and L-14012/53/2004 [IR(DU)] all dated 29/3/2005 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following industrial disputes for adjudication to this Tribunal.

ID No. 79/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Sukhpal Singh S/o Sh. Lachhman Singh, *w.e.f.* 24/02/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

ID No. 80/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Dilbar Singh S/o Sh. Jagjit Singh, *w.e.f.* 9/3/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

ID No. 81/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Darshan Singh S/o Sh. Jeet Singh, *w.e.f.* 24/02/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

ID No. 82/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Major Singh S/o Sh. Kaka Singh, *w.e.f.* 24/02/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

ID No. 83/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Sohan Singh S/o Sh. Roshan Singh, *w.e.f.* 24/02/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

ID No. 85/2005

"Whether the action of the management of Garrison Engineer (Utility), Bathinda Cantt, Bathinda in terminating the services of Sh. Manjit Singh S/o Sh. Jaswant Singh, *w.e.f.* 24/02/2004 even without complying with the statutory provisions of ID Act is just and legal? If not, to what relief the workman is entitled and from which date?"

Since in all the references common questions of law and fact are involved hence they are being decided by this common award.

As per claim statements the workman had been employed by the Garrison Engineer (Utility) MES Bathinda through the Contractor and the workmen continued despite the change of contractors. All the workmen had been appointed as operator (skilled worker) between 1989 to 2001 but the services of all the workmen except of Dilbar Singh (of ID No. 80/2005) were terminated on 24/2/2004 and that of Dilbar Singh on 9.3.2004 in violation of the provisions of Section 25F, G and H of the Act. The workmen had continuously worked from the date of employment till the date of termination and had completed more than 240 days service in a calendar year preceding the date of their termination. While terminating their services the juniors were retained and after the termination new hands were employed afresh without making any offer of re-employment to the workmen. It has also been alleged that the so-called contract system by the MES authorities is sham and a smoke screen and upon lifting the veil it would be found that the contract system has been adopted by the MES authorities only with a view to exploit the unemployment conditions. The employment through contractors is only a pretext and in fact there is direct relationship of master and servant between the MES authorities and the workmen. The workmen worked under the direct supervision and control of the MES authorities. Log Book were written/maintained by the workmen and checked by the officials of MES authorities. They had been issued I. Cards by the respondent and the ultimate authority to appoint rested with the MES authorities. The ultimate disciplinary control was also with them and the present termination is also at the behest of the MES Authorities being the principal employer. It was also alleged that neither the MES authorities and nor the contractors are registered under the Contract Labour (Regulation and Abolition) Act, 1970 hence for all intents and purposes the workmen are the employees of MES authorities. They have claimed their reinstatement with continuity in service and full back wages.

The claims were contested by the management and it was alleged that undisputedly workmen were employed by the contractors who had been given the task of manning and operation of installations of the management and there was no relationship of employer and employee between the management and the workmen. The workmen were never fully integrated into the management because all the powers namely, power to select and dismiss, power to pay remunerations, power to organize work, power to supply tools and materials lie solely with the contractor and the provisions of Section 25F, G and H are not attracted in these cases.

A replication was filed on behalf of workmen and the contents made in the claim statements were reiterated.

The workmen examined themselves in their respective cases but subsequently stopped appearing in the case. When they did not appear despite several adjournments the cases were ordered to proceed ex parte against them. On behalf of management statement of Indal Prasad was recorded. His statement could not be completed and had been deferred on the request of learned counsel for workmen but as subsequently the workmen were put ex parte hence, the witness was discharged.

I have heard the learned counsel for the management and perused the evidence on record. All the workmen have admitted that they have not been given appointment letters and termination order by the management. They have also admitted that the salary was being paid to them by the contractor. The workmen have filed security pass and I. Card etc. but they cannot be accepted as a proof of employment by the management. The learned counsel for management argued that since the relationship of master and servant has been alleged by the workmen hence, it was for them to prove it. There is no evidence to show that they had been appointed by the management and they had worked under the supervision and control of the management and they had integrated with the management.

I agree with the learned counsel for management that absolutely there is no evidence to prove that the workmen were the employees of the management. There is nothing on record to show that they worked under the supervision and control of the management, they were under the disciplinary control of the management, they were an integral part of the management organization; and, they themselves have admitted that they were not being paid by the management. Hence, I am of the view that the workmen were not the employees of the management.

Even if it is assumed that the MES and the contractor through whom the workmen alleged to have been employed by the management are not registered under the Contract Labour (Regulation and Abolition) Act, 1970 then they may be liable for action under the said Act, but the violation of the provisions of the said Act cannot make the workmen the employees of the MES. Since the workmen were not the employees of the respondent hence, there was no obligation on the management to comply with the provision of Section 25F, G and H of the Act. The workmen were neither the appointees of the management nor their services were terminated by the management hence, they are not entitled to any relief. References are answered against the workmen. A copy of award be placed on the record of ID No. 79/2005, ID No. 80/2005, ID No. 81/2005, 82/2005, 83/2005 and ID No. 85/2005 each. Hard and soft copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 30.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प ग ई म इ र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 1364/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/102/2007-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 30.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1364/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of P.G.I.M.E.R. and their workmen, received by the Central Government on 18/12/2013.

[No. L-42012/102/2007-IR(DU)]

P.K. VENU GOPAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: SRI A.K. RASTOGI, Presiding Officer

Case No. I.D. 1364/2008

Registered on 11.3.2008

Smt. Santosh W/o Sh. Rajender, H. No. 906, Janata Colony, Sector 12, Chandigarh.

...Petitioner

Versus

1. The Director, PGIMER, Sector 12, Chandigarh.
2. M/s A.N. Kapoor (Janitors) Private Limited, PGIMER Room No. 38, Nehru Sarai, Chandigarh.

...Respondent

APPEARANCES:

For the workman : Sh. Anil Mehta Adv.

For the management : Sh. Madan Mohan Advocate

AWARD

(Passed on 9.4.2013)

Central Government *vide* Notification No. L-42012/102/2007-IR(DU) Dated 29.2.2008, by exercising its powers

under Section 10, Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of M/s A.N. Kapoor (Janitors) Private Limited a contractor of the Nehru Hospital, PGIMER, Chandigarh in terminating the services of their workman Smt. Santosh *w.e.f.* 18.11.2006 is legal and justified? If not, to what relief the workman is entitled to?"

After receiving the reference notices were issued to the parties. They put in their appearance but respondent No. 2 did not appear subsequently and contest the case hence he was put *ex parte vide* order dated 30.3.2012.

In the claim statement workman pleaded that she was appointed by Director PGI *w.e.f.* April 2001 on monthly salary of Rs. 2400 and she continued to work till April 2005 when her services were deployed to the contractor respondent No. 2 *i.e.* M/s A.N. Kapoor. She continued to work with the above mentioned contractor up to 17.11.2006 when her services were terminated by the above mentioned respondent No. 2. It is pleaded by the workman that for all intents and purposes she was the employee of respondent No. 1 *i.e.* PGI as she was under the control of that respondent who was the principal employer. She has completed more than five years service with the management and completed 240 days in preceding year. It was also alleged that the action of the management in terminating the services of the workman is against the provisions of Industrial Disputes Act. That mandatory provision of Section 25F has not been complied with as she was not given any notice and notice pay or retrenchment compensation at the time of termination. The principle of "first come last go" was also not observed by the management and juniors to her were retained. It is further pleaded by the workman that her termination is not a termination simpliciter but it is a punishment and the management has not conducted any inquiry. The termination is illegal and is liable to be set aside. According to her she is entitled to reinstatement with full back wages and continuity of service.

The claim was contested by the management of PGI *i.e.* respondent No. 1. They filed written statement *inter alia* pleading that the workman was employed by contractor M/s A.N. Kapoor Private Limited in accordance with the terms and conditions settled between them without any involvement of the answering respondent PGI. Mere employment of contract labour does not create any relationship as direct employee of the management of the PGI. There was no relationship between the applicant and the management of PGI and provisions of ID Act are not

applicable qua the respondent No. 1 *i.e.* PGI. Therefore the reference be decided in favour of the management of PGI.

In support of her case the workman filed her affidavit while on behalf of management (PGI) affidavit of Sh. C.S. Maan, Administrative Officer (H) was filed.

However on 9.4.2013 workman Santosh appeared and gave the statement that she is presently working with the Contractor Gill of PGI and she has no dispute with the old Contractor *i.e.* M/s A.N. Kapoor Private Limited and she does not want to pursue the present reference. It is thus clear from the statement of workman that there is no dispute now between the parties. Therefore a 'No Dispute' award is passed in the case. Let two copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 31.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट, टेलीग्राफ, गोडहियारी, रायपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या (210/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/124/92-आईआर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 31.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 210/93) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Senior Superintendent, Telegraph Traffic, Godhiyari, Raipur and their workman, received by the Central Government on 18.12.2013.

[No. L-40012/124/92-IR(DU)]
P.K. VENU GOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/210/93

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Ramu Srivas,
S/o Babulal Srivas,

Resident of Gudhiyari,
Raipur (M.P.)

....Workman

Versus

Senior Superintendent,
Telegraph Traffic,
Gudhiyari,
Raipur

....Management

AWARD

(Passed on this 4th day of October, 2013)

1. As per letter dated 30.9.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/124/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of D/o Telegraphs through its Asstt. Supdt. Department Telegraph Office, Gudhiyari, Raipur (MP) in terminating the services of Shri Ramu Shrivastava S/o Shri Babulal Shrivastava, Casual Labour Chowkidar and Watchman and Waterman *w.e.f.* 15.2.1990 is lawful and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 4/1 to 4/2. Case of workman is that he was working as casual waterman/chowkidar in office of Asstt. Suptd. Telegraph, Gudhiyari from 21.8.86 to 15.2.90 for about 3½ years. He was paid wages about Rs. 900 to 1050 inclusive of DA in year 1990. The water were paid under voucher. The voucher are with the deptt. That after working continuously for about 3½ years, the services were terminated in violation of Section 25-F of I.D. Act. The termination from service is illegal. After termination of his services, the deptt. is still engaging waterman only with a view to avoid permanency benefits to the employees. The department is changing employees. On such ground, workman prays for reinstatement with consequential benefits.

3. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|-------------|
| (i) Whether the action of the management of D/o Telegraphs through its Asstt. Supdt. Departmental Telegraph Office, Gudhiyari, Raipur (MP) in terminating the services of Shri Ramu Shrivastava S/o Shri Babulal Shrivastava, Casual labour Chowkidar | In Negative |
|---|-------------|

and Watchman and Waterman
w.e.f. 15.2.1990 is legal?

- (ii) If not, what relief the workman is entitled to?" As per final order.

REASONS

4. Workman is challenging termination of his services for violation of Section 25-F of I.D. Act. IInd Party has failed to file Written Statement. Workman filed affidavit of its evidence. He has stated that he was continuously working with IInd Party as waterman/chowkidar from 21.8.86 to 15.2.90. Prior to his termination, he was paid wages Rs. 900-1050 inclusive of DA. That services are terminated in violation of Section 25-F of I.D. Act. In his cross-examination, workman says he was engaged as casual worker. His name was not sponsored through Employment Exchange. He was working as waterman. He denied suggestion that he was not working continuously. His services were engaged as per need/exigency. He denied suggestion that notice was issued to him for termination of his services. Workman denied payment of one month's wages in lieu of notice.

5. Management filed affidavit of its witness Shri P.M. Gedam but failed to remain present for cross-examination. The affidavit of other witness Vasant Jatake is filed by management. When Written Statement is not filed on behalf of IInd Party certainly IInd Party was not entitled to adduce evidence in the matter. However the management's witness filed affidavit stating that workman was engaged on daily wages from 27.8.96. The post of Chowkidar was not sanctioned. The services of workman were discontinued from 16.2.90. Management's witness further states that retrenchment compensation was sent to workman on 25.1.95 was received back from postal authorities. That the workman was paid wages at the rate fixed by Collector, Raipur. As per policy, the services of casual labour were not required therefore workman was given notice and retrenchment compensation was offered. In his cross-examination, witness of management says that he has filed affidavit as per information received from record. That retrenchment compensation was drawn on 25.1.99, it was received back. That workman was served with one month's notice. He was unable to tell whether these copies are on record. Letter offering compensation was received back. The witness was unable to say whether as per circular Exhibit M-3, employees working during 1985 to 88 were not regularized. Witness states temporary status was given. That the employees continuously working for 240 days during the year are entitled to temporary status. The terms of reference does not cover the regularization of service of the workman. It relates to legality of termination from service.

6. Document Exhibit M-1 is office copy of notice dated 5.2.90. Exhibit M-2 is xerox copy of postal envelope

sent to workman. It appears endorsement that as address of the workman was not found, the letter is received back. M-3 is circular dated 17.12.93 for regularization of services of casual labours working during the period 31.3.85 to 22.6.88. If evidence of workman is properly appreciated, his evidence is not shattered that he was continuously working for 3½ years i.e. 21.8.86 to 15.2.90. The evidence of management's witness is based on document. Any of the documents are not produced by the management about working days of the workman. The evidence of management's witness is not corroborated by argument. Therefore the evidence of workman deserves to be relied. As workman had completed more than 240 days service preceding 12 months of his discontinuation from service without notice or paying retrenchment compensation, it is illegal. The evidence of management's witness that retrenchment compensation was sent as per letter Exhibit M-1 in 1995 was not served on workman. The services of workman were terminated from 15.2.90. The offer of retrenchment compensation after lapse of more than 4 years cannot be said valid. Thus the termination of services of workman in violation of Section 25-F of I.D. Act is illegal. Therefore I record my finding in Negative.

7. Point No. 2—In view of my finding on Point No. 1, termination of services of workman is illegal. Question arises as to what relief the workman is entitled? The name of workman was not sponsored through Employment Exchange. Workman worked for about 3½ years. Learned counsel for management submitted that workman is not entitled for reinstatement.

8. Reliance is placed on ratio held in Case of—

"Sr. Suptd. Telegraph Traffic Bhopal *Versus* Santosh Kumar Seal and others reported in 2010-6-SCC-773. Their Lordship of the Apex Court observed on facts as workman were engaged as daily wagers about 25 years back and they worked hardly for 2-3 years, relief of reinstatement and back wages to them cannot be said justified. The Appellant employers are directed to pay monetary benefits Rs. 40,000 to each of the workman."

Considering 3½ years period of working of workman, in my considered view, compensation Rs. 75,000 would be appropriate. The reinstatement with back wages cannot be allowed. Accordingly I hold and record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) Action of the management of D/o Telegraphs through its Asstt. Supdt. Departmental Telegraph office, Gudhiyari, Raipur (MP) in terminating the services of Shri Ramu Shrivastava S/o Shri Baulal Shrivastava, Casual labour chowkidar and watchman and Waterman w.e.f. 15.2.1990 is not legal.

- (2) IInd Party is directed to pay compensation Rs. 75,000 to the workman Shri Ramu Shrivastava within 30 days from the date of award.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 32.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्टल सिविल डिविजन, भोपाल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/129/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/2/2004-आईआर (डी०यू०)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 32.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/129/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Postal Civil Division, Bhopal and their workman, which was received by the Central Government on 19.12.2013.

[No. L-40012/2/2004-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT, JABALPUR

No. CGIT/LC/R/129/2005

PRESIDING OFFICER: SHRI R.B. PATLE

Shri S.S. Debey, Secretary,
National Federation of Telecom Employee,
Jabalpur Telecom District,
CTO Compound,
Jabalpur

....Workman

Versus

The Executive Engineer (Civil),
Postal Civil Division, Bhopal

....Management

AWARD

(Passed on this 13th day of August 2013)

1. As per letter dated 15.12.2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/2/2004-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Executive Engineer (Civil), Postal Civil Division, Bhopal in terminating the services of Shri Anand Kumar S/o Shri Krishan Lal, Ex-part time Safaiwala *w.e.f.* 31.12.1994 is just and legal? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Union submitted statement of claim at Page 3/1 to 3/5. The case of Ist Party is that Shri Anand Kumar was appointed as part time safaiwala by the IInd party in 1990. He was working with full satisfaction of his superiors. That he is covered under Section 2(s) of I.D. Act. His services were orally terminated from 31.12.1994. That in violation of Section 25-F, permission is not taken under Section 25(N) of I.D. Act though more than 1000 workers are working under IInd Party. That he had worked for 253 days in 1994, he had submitted application for absorption in service therefore his services were terminated. That Circular was issued by the department of Telecom on 16.9.99 for absorption of part time casual labour. His benefit was not given to him. That he had completed 240 days service preceding calendar year. His representations were rejected on the ground that he was not part time employee. On such grounds, Ist party workman prays for reinstatement with back wages as well as for regularization of service.

3. IInd Party filed Written Statement at Page 6/1 to 6/4. He denied that Ist Party Shri Anand Kumar was working as part time employee. According to IInd Party said Anand Kumar was engaged for 1 hour per day as safaiwala. He was paid Rs. 6.75 per day. He is not covered as workman under Section 2(s) of I.D. Act. That IInd Party is not an industry under Section 2(j) of I.D. Act. It is therefore submitted that Ist Party workman is not entitled for regularization. That Ist Party workman had worked for 253 days in 1994 as 1 hour per day. He has not worked for more than 240 days in calendar year 1994. That he is not entitled to regularization as per circular dated 16.9.99. No post is vacant in the department, no irregularity is committed by IInd Party. It is denied that Shri Ramesh Tiwari is similarly placed. IInd Party prays for rejection of claim.

4. Rejoinder is filed by workman reiterating its contention in Statement of claim that IInd Party is covered as an Industry. Judgments are filed in ratio held by Hon'ble Apex Court.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

(i) Whether the establishment of IInd Party is industry under Section 2(j) of I.D. Act? In Affirmative

(ii) Whether the action of the management of Executive Engineer (Civil), Postal Civil Division, Bhopal in terminating the services of Shri Anand Kumar S/o Shri Krishan Lal Ex-part time Safaiwala w.e.f. 31.12.1994 is legal? In Negative

(iii) If not, what relief the workman is entitled to?" As per Final order.

REASONS

6. The parties are in dispute whether establishment of IInd Party is covered as an Industry under Section 2(j) of I.D. Act? However specific evidence is not adduced by IInd party about the activities undertaken by the establishment of IInd Party. The counsel for IInd Party relies on ratio held in

"Case of Sub Divisional Inspector of Post, Vaikam versus V.T. Joseph reported in 1996-SC-1271. In said case, their Lordship of the Apex Court held Postal and Telecom Deptt. is not an industry."

7. Learned counsel Shri Tripathi for workman on the point relies on ratio held in

"Case of All India Radio *Versus* Santosh Kumar and another reported in 1998(3) Supreme Court cases 237. Their Lordship held Section 2(j) as it stand at present i.e. before enforcement of 1982 amendment. All India Radio and Doordarshan held covered under Industry."

Reliance is also placed in ratio held in

Case of General Manager, Telecom *Versus* Srinivasa Rao reported in 1997(8) Supreme Court Cases 767. Their Lordship held Telecom Deptt. of Union of India is covered as Industry."

In view of ratio held in above cited cases, I hold that the establishment of IInd Party is covered as an Industry.

8. The terms of reference relates to illegality of termination of services of Shri Anand Kumar S/o Shri Krishan Lal. The terms of reference donot cover the dispute relating to regularization of his service. Therefore the contentions of the parties relating to regularization of service needs no discussion. Workman filed affidavit of his evidence claiming that before termination of his service in 1994, he had worked for 253 days. His services were terminated without notice, no retrenchment compensation was paid, that one Ashish Tiwari was given temporary

status. In his cross-examination, workman says that he had received certificate of working for 253 days which bears writing as part time. The certificate doesnot mention working for 4 hours. That he had asked for Experience certificate in 1993 but the same was not received. On his request, he admits that Shri Rakesh Kumar has worked for 4 hours. In the Written Statement filed by IInd Party, Ist Party workman worked for 253 days in 1994 is not disputed. The dispute between parties is that workman is a part time employee working for more than 4 hours per day. The management of IInd Party claims that he was working for petty works 1 hour per day.

9. The management filed affidavit of evidence of his witness Shri Bajpai supporting contentions of management. In his cross-examination management's witness says that he had seen Anand Kumar while was giving work in the division. He has not seen him working. He has not marked his attendance neither given wages while making payment, signatures are received in receipt. The office is shifted and record of hand receipt is not available. That as per cash book, Anand Kumar worked till April 1995 and not till December 1995. The management's witness was unable to tell name for cleaning work. After services of Shri Anand Kumar, he was discontinued. He admits that other persons are working in shifting work. The evidence of management's witness is not cogent on the point that Shri Anand Kumar was engaged only for one hour per day. I donot find reasons to disbelieve evidence of workman that he was working as part time employee, his services were terminated without notice, no retrenchment compensation was paid. Therefore the termination of his services is illegal. For above reasons. I records my finding in Point No. 1 in Negative.

10. Point No. 2- In view of my finding in Point No. 1, question arises as to what relief workman is entitled? As per record, workman was working as Safaiwala on part time basis. He was not required employee. He was not appointed after following selection process. His name was not sponsored through Employment Exchange because he was not appointed against sanctioned post. However workman completed 240 days continuous service preceding 12 calendar months therefore he was entitled to protection under Section 25-F(a) (b) of I.D. Act. His services were terminated in violation of Section 25-F of I.D. Act. Considering the facts, relief of reinstatement of workman would not be appropriate. Relief of reasonable compensation would meet the ends of justice. Considering workman was working from 1990 to 1994, he is out of employment since long period, compensaton Rs. 40,000 is reasonable. Accordingly I record my finding in Point No. 2.

11. In the result, award is passed as under:—

- (1) The action of the management of Executive Engineer (Civil), Postal Civil Division,

Bhopal in terminating the services of Shri Anand Kumar S/o Shri Krishan Lal, Ex-part time Safaiwala w.e.f. 31.12.1994 is not legal.

- (2) IInd Party is directed to pay compensation Rs. 40,000 to the workman Shri Anand Kumar.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

कांआ 33.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/43/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं एल-42012/16/2006- आईआर (डीयू)]
पी के वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 33.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/43/2006) of the Cent. Govt. Indus. Tribunal/ Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 19/12/2013.

[No. L-42012/16/2006-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/43/2006

PRESIDING OFFICER : SHRIR.B. PATLE

The Regional Secretary,
All India CPWD employees Union,
A.G.M.P. Colony,
Shastri Nagar,
Gwalior

...Workman/Union

Versus

The Chief Engineer (Central Zone),
Central Public Works Department,
52-A, Nirman Sadan,
CGO Complex, Arera Hills,
Bhopal (MP)

....Management

AWARD

(Passed on this 18th day of July 2013)

1. As per letter dated 2.8.2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No. L-42012/16/2006-IR(DU). The dispute under reference relates to:

" Whether the demand of the All India (CPWD) Employees Union from the management of Chief Engineer (Central Zone), Central Pubic Works Department, Bhopal for regularizing the services of Shri Aashik Khan S/o Shri Mohsan Khan, Motor Lorry Driver is legal and justified? If so, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist Party Union filed statement of claim at Page 2/1 to 2/6. Case of Ist Party Union is that Aashik Khan, S/o Mohsan Khan is its member. He is workman under Section 2(s) of I.D. Act. That IInd Party is covered as an industry under Section 2(j) of I.D. Act. That IInd Party are Controlling Authority of Aashik Khan who was working as Motor Lorry Driver from 1.11.91. He was paid Rs. 1500 per months. From 16.4.92, he was transferred to Bhopal Division along with vehicle. From 1.1.96, he was transferred with Vehicle to Dewas. From 25.11.02 he was transferred to office of Suptd. Engineer, Indore. The workman was paid Rs. 1500. His pay was increased to Rs. 1800 to 2000 and from 2000 to 5332. Other details of the increase of wages are given. Workman was paid overtime Rs. 15.85 per hour, night allowance Rs. 50. It is submitted that his services are not regularized despite of working for long period. It is in violation of Article 14,16 of the constitution. That in Writ Petition 401/2004, Bombay High Court had directed regularisation of 9 employees allowing 12% interest on the amount due for payment. In original application No. 781/98, CAT Jabalpur had directed to regularize services of the employees within 3 months. Giving reference to various decisions, the workman submits that the denial of regularization of the workman Aashik Khan is illegal. It is discriminatory. The services of workman Aashik Khan be regularized as Motor Lorry Driver.

3. IInd Party filed Written Statement at Page 8/1 to 8/4. Case of IInd Party is that workman Aashik Khan was initially given job of lorry driver in November 1991 on work order basis. It was contract work as and when work was

available for specific period. That he was initially engaged in CPWD office, Ujjain. Said division was closed in April 1991. The workman was given contract on work order basis for specific period in Bhopal division from 16.4.92. The workman was also given job on contract basis at Dewas Civil Division from January 1996. On closure of Civil division contract job of Dewas automatically came to an end. Since the workman was continuously given job of contractual nature for considerable period, the authority decided to give him job on contract basis of Assistant Director, Sub Division, Indore since 25.11.2002.

4. It is further contended that when the job of workman as lorry driver on contract basis was for specific period, he was not selected for the job following due process for selection. As such the job of workman was not against sanctioned post. Whenever he was engaged for the job at different places, not by order of transfer, the workman was not regular employee. During the working, contractual rates admissible were paid to him. The management discontinued with the system of giving job on contract basis. The workman employed as motor driver at the minimum pay scale of a Driver since 16.12.2007 *i.e.* Rs. 3050. He is also paid DA. The workman is not selected for the post following due process for selection. The present employment of workman is not against regular post. His present employment is on minimum pay scale admissible to the post of Motor Driver but not against sanctioned post. The demand of workman for regularization is not acceptable.

5. The recruitment rules for drive applicable to CPWD. The post of driver is required to be filled by promotion and seniority cum fitness from cadre of Khalasi 75% and 25% by direct recruitment. The workman was never employed as Khalasi with the management. Therefore he is not eligible for promotion, no sanctioned post is vacant. The workman cannot be given the benefit of direct recruitment or so. On such contentions, IInd Party submits that workman is not eligible for regularization as he is not appointed following process for selection against sanctioned post. IInd Party prays for rejection of the demand of Union.

6. Rejoinder is filed by workman reiterating its pleadings. That since November 1991 workman was appointed as lorry driver. The contention of IInd Party that he is not entitled to any benefit is denied. According to Ist Party, copy of work orders shows work was available when workman was engaged on need basis. The dispute was raised much prior to 2006. The management deliberately not filed service record of the workman prior to 2006. That workman is in continuous employment. There is no need for open selection. The management also admit that workman had performed duty for long period as driver. On such ground, Ist Party Union submits that the denial of regularization is illegal.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the demand of the All India CPWD Employees Union from the management of Chief Engineer (Central Zone), Central Public Works Department, Bhopal for regularizing the services of Shri Aashik Khan S/o Shri Mohsan Khan, Motor Lorry Driver is legal?	In Affirmative
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(ii) If so, to what relief the workman is entitled to?"	As per final order.
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REASONS

8. The demand of Union is that services of Aashik Khan working as Lorry Driver with IInd Party be regularized. He was working from 1.11.91. He was transferred to different places along with vehicle. He is praying for regularization in service.

9. IInd Party submits that Shri Aashik Khan was engaged on contract basis. He was not appointed sanctioned post. He is not entitled for regularization. Affidavit of evidence of Aashik Khan is filed. He has stated that he was engaged by management as Motor Lorry Driver following due process from 1.11.91. Since his engagement on said post, he rendered continuous service at Ujjain CPWD Office. He was transferred to Bhopal, Dewas and Indore offices of the respondents. One Ramesh working similarly as motor lorry driver was regularized. He also claims working on the sanctioned post. In his cross-examination, witness says he is still in service, appointment letter was not given to him. He had received order. Exhibit M-2, 2-B, his name was not sponsored from Employment Exchange. He worked at Ujjain office from 1981 to 1992. He worked at Bhopal from May 1992 to December 95 and Dewas from January 96 to 2002. He was transferred along with vehicle to Indore. Before his transfer, he was never asked whether he will go to new places or not.

10. The affidavit of management's witness Mahipal Singh is filed. The witness of the management states that workman was engaged on contract basis as Lorry Driver at Ujjain, Bhopal, Dewas and Indore. When there was no job work in Dewas Division, his contract was not renewed. However because of his continuous association with the department as contract worker, the authority decided to give him job on work order basis in the office of Assistant Director (Horticulture), at Indore *w.e.f.* 25-11-2002 and continued till 16-12-2007 at minimum pay scale of Rs. 3050/- as the service of motor driver was necessary. That as per recruitment rules, 50% post are to be filled by

direct recruitment and 50% by promotion among feeder categories of Assistant Mechanic, Assistant Fitter and Assistant Operator. In his cross-examination, management's witness claims ignorance that in 1991, how many post of drivers were vacant in CPWD, Ujjain. He has not seen work order issued in 1991. He admits that in April 1992, Shri Aashik Khan was transferred from Ujjain to Bhopal. He denies that though work was available at Bhopal, workman was transferred to Dewas. Management witness also denied in para-9 that workman was working at Dewas Division from January 1996 to 24-11-2002. He claims ignorance about Mukesh Singh, Driver and regularization of their services. The witnesses claims ignorance whether one post was vacant and workman Aashik Khan was continued against said post.

11. Copy of judgment in Original application No. 791/1998 produced at Exhibit W-1. Said original application was filed by Shri Aashik Khan himself. Hon'ble CAT Jabalpur directed respondents to consider case of applicant for appointment to the post of Driver in the department in accordance with statutory rules taking into consideration long service more than 12 years performed by applicant. The process be completed within period of 3 months and result be communicated. The officie order Exhibit W-2 produced in that regard. The services of workman was not regularized for the reasons that direct recruitment quota cannot be filled as Shri Aashik Khan did not fulfill eligibility criteria. That Mr. Khan cannot be considered against permanent quota as he was not working in feeder post. Thus the direction issued by Hon'ble CAT Jabalpur in original application 791/98 were not given effect for regularization in services of the workman. The copy of judgment in application No. 222/03 filed by Ramesh Sagar is produced. The services of Ramesh Sagar were directed to be regularised observing that his case was fully covered as per the judgment order in application no. 786/96. It appears from those judgment that the services of other employees were regularized as per order passed by CAT, Jabalpur. Shri Aashik Khan was not regularized as he was not working in the feeder cadre and he was not fulfilling eligibility conditions for direct recruitment.

12. Management produced document Exhibit M-1 copy of recruitment rules. The eligibility of Motor Lorry driver is shown method of recruitment 50%, direct 50% promotion, age limit-20 to 30 years, ability to read and write, must posses a driving licence for heavy motor, practical driving test which should be fairly stiff standard by promotion from Asstt. Mechanic, Assistant Fitter, Assistant Operator. Document Ex. M-2(A), (B) are about details of work order issued to Shri Aashik Khan. Exhibit W-2 does not show which eligibility criteria was not fulfilled by Shri Aashik Khan. Whether he was not holding driving licence, whether his educational qualification was lacking. Clause-9 of Exhibit No. 2 is that as regards his regularization against the direct recruitment quota, a favourable order

can not be passed as Shri Khan does not fulfil the eligibility criteria of the prescribed Recruitment Rules for Direct Recruitment. The order is passed on 21-2-2005. The written statement and evidence of management's witness are silent which eligibility criteria were not fulfilled by Shri Aashik Khan for denying regularization as per order passed in CAT, Jabalpur in original Case No, 791/98.

13. Learned counsel for workman Mr. Pranay Choubey on the point of regularization relies on judgment in—

Appeal No. 15774/2006 — State of Karnataka and others *versus* Shri M.L. Kesari and others. In Para 53 of the judgment, State of Karnataka *Versus* Umadevi is extracted. Their Lordship observed it is evident from above there is exemption to the general principles against regularization enunciated in Umadevi when the following conditions are fulfilled—

- (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.
- (ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

That Umadevi casts a duty upon the concerned Government or instrumentality to take steps to regularize the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one time measure. Umadevi directed that such one time measure must be set in motion within six months from the date of its decision.

In present case, Shri Aashik Khan is working as Lorry Driver from November 1991 more than 22 years. He was transferred to other places. As per evidence of management's witness Mahipal Singh, he has no personal knowledge about working of Shri Aashik Khan. He claims ignorance whether one post was vacant and Aashik Khan was continued against said post. Workman was given post

of lorry driver from 16-12-2007. The directions were issued by CAT Jabalpur in 791/98 for regularizing his services were not complied by the management of IInd Party.

14. Learned Counsel for IInd Party Mr. Nair relies on ratio held in—

"Case of State of Himachal Pradesh and another *Versus* Ravinder Singh reported in 2009 AIR SCW 452. Their Lordship held Respondent daily rated worker in State Department working for 10 years, his name was neither sponsored by Employment Exchange nor appointment was as per proper procedure for regular appointees. Respondent cannot claim regularization of service.

In case of Post Master General, Kolkata and others *Versus* Tutu Das (Dutta) reported in 2007-III-LLJ-163, their Lordship of the Apex Court held completion of 240 days is not relevant for regularization. Daily rated substitute claiming regularization on basis of certain circular. Their Lordship held claim not sustainable either on ground of 240 days service or on ground of discrimination.

Ratio in above case cannot be applied to present case at hand as workman is working as lorry driver from November 1991 and CAT Jabalpur had directed for regularization of his services as per rules. Without giving details which eligibility criteria the workman was not fulfilling, regularization was denied to the workman. Claim of the workman is fully covered as per judgment in case of State of Karnataka *Versus* M.L. Kesari and others discussed above.

15. Learned counsel for IInd Party Shri Nair further relies in ratio held in—

Union of India and another *Versus* Ram Singh Thakur and others reported in 2012 AIR SCW 3806. Their Lordship held the regularization of service is purely a executive function. The direction for regularization in service cannot be given by judiciary.

In case of Accounts Officer, APSRTC & others *Versus* K.V. Ramana and others reported in AIR 2007-Supreme Court 1166. Their Lordship observed in our opinion, these appeals have to be allowed. It has been held by a constitution bench of this court in Secretary, State of Karnataka and others *Versus* Umadevi that absorption, regularisation or permanent continuance of temporary, contractual, casual, daily wage or adhoc employees de hors the rules cannot be granted.

Para-53 of the judgment in State of Karnataka *Versus* Umadevi is not referred by their Lordship. The exemption is granted if the employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any Court or Tribunal.

In present case, Ist Party workman is working since 1991, he was working at Ujjain, Bhopal, Dewas, Indore along with vehicle for very long time. IInd party allowed minimum

pay scale Rs. 3050/- from 26-12-07. Considering above facts and para-53 of the judgment in Umadevi's case, action of IInd Party denying regularization is not legal. The demand of the Union for regularization of services of Shri Aashik Khan is, therefore justified. Accordingly I record my finding in Point No. 1.

16. In the result, award is passed as under:—

1. Demand of Ist Party Union of regularization of service of Shri Aashik Khan S/o Mohsin Khan, Lorry Driver is legal.
2. IInd Party is to take appropriate steps as per demand of the Union for regularisation of service of Shri Aashik Khan, Lorry Driver.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 34.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिविजनल रेलवे मैनेजर, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/71/1993) प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-41012/17/92-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 34.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/71/1993) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Divisional Railway Manager, Bhopal and their workman, which was received by the Central Government on 19/12/13.

[No.L-41012/17/92-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/71/93

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Prem Narayan Halkuram,
RBI-296-B,
Behind Railway Hospital,
Purvi Colony,
Bina Distt. Sagar (MP)

...Workman

Versus

The Divisional Railway Manager,
Central Railway,
Bhopal

...Management

AWARD

(Passed on this 16th day of July, 2013)

1. As per letter dated 22-3-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/17/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of DRM, Central Railway, Bhopal, MP in terminating the services of Shri Premnarayan Halkooram, Ex-Chowkidar *w.e.f.* 28-7-89 is justified? If not, what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed Statement of claim at Page 2/1 to 2/4. The case of Ist Party workman is that initially he was employed as Trollyman in Central Railway, Bhopal at Jhansi Division. He worked honestly. His service record was unchallenged. Subsequently he was allowed to work as chowkidar. On 18-11-75, he was honestly working. Some notorious persons in the department were annoyed with Bank. The notorious persons could not found the opportunities to fulfill their illegal needs and requirement during his working as chowkidar. All such persons made a lobby to harass him. That he was in dishonest activities of theft and similar activities. That under threatening and challenge to his life, he submitted his resignation on 30-9-85. However the management did not accept his resignation as per letter dated 2-10-85.

3. On 29-1-86, he was served with chargesheet alleging false allegations against him. He denied the charges in his reply. The charges were relating to unauthorized absence. The workman submits that he was sick due to dogbite on 10-9-85. After he was declared fit by the Railway Doctor, he joined duty on 11-9-85, he was sanctioned leave for the period 12-9-85 to 23-9-85. After submitting reply to the chargesheet on 12-12-85, he received letter for attending Departmental Enquiry. It is submitted that enquiry was conducted *ex parte* without proper notice of the dates of hearing. The findings of Enquiry Officer was not received by him. The punishment of dismissal was imposed without notice. On such grounds, workman prays for his reinstatement with back wages.

4. The management filed Written Statement at page 7/1 to 7/3. Allegation of workman about his satisfactory service record are denied. That chargesheet was served on workman on 29-1-86. Rest of the allegations of workman are denied. It is denied that enquiry was conducted without

giving opportunity to deny that report of Enquiry Officer was not served. It is denied that principles of natural justice was not followed in the enquiry. If it is found that the enquiry is illegal, IInd Party prays permission to prove misconduct adducing evidence. IInd Party submits that enquiry conducted against workman is proper and legal.

5. As per order dated 10-3-2011, enquiry held against workman is found valid and proper. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the findings of Enquiry Officer are perverse, whether the punishment of dismissal of workman is proper and legal? In Affirmative

(ii) If so, to what relief? As per final order.

REASONS

6. As discussed above, enquiry is found legal and vitiated, therefore the question remains for decision whether the findings of Enquiry Officer are supported by evidence or findings are perverse and whether the punishment of dismissal is proper and legal. Affidavit of evidence of workman filed is mostly devoted about the legality of the Enquiry Proceedings, it needs no discussion. From pleadings of workman, he was absent from duty because of dog bite. He was granted leave from 12-9-85 to 23-9-85. In his affidavit of evidence, workman stated that during that period, he was under mental distress due to torture by threatening by so many persons. He submitted resignation letter but was not accepted by the authorities. Workman in his cross-examination admits that he was served with chargesheet by Railway. He had not given reply to it. Then he was dismissed from service, he had received intimation from Enquiry Officer. He did not participate in the enquiry. The evidence of management witness Shri Vasudeo chopra is on the point of conducting enquiry by him. He submitted findings as per Exhibit M-1. In his cross-examination, he has stated that the notice to the workman was served by Khalasi on behalf of management. The chargesheet issued to workman dated 29-1-86. He was unauthorized absent from 21-8-85 till the date of issuing chargesheet. Thus his period of unauthorized absence from 21-8-85 to 29-1-86 for more than 5 months. The workman had admitted his absence in Exhibit M-2 and prayed for providing employment for support of his family. The above charge is supported from evidence of management's witness.

7. Workman has died during pendency. He cannot be reinstated. The punishment of dismissal for unauthorized absence for 5 months has been imposed by management of IInd Party without reference to any rules or standing orders appears harsh. At the time of argument, learned counsel for workman Shri R.C. Shrivastava submitted that

the punishment of dismissal be set-aside according benefit of deemed service so that the dependents of the deceased workman are not deprived of benefit after death of the workman. I find substance in above argument. The punishment of dismissal for unauthorized absence for 5 months is not justified. If deserved to be quashed and set-aside. Accordingly I record my finding on Point No. 1 in Negative, Point No. 2 as per final order.

8. In the result, award is passed as under:—

- (1) The action of the management of DRM, Central Railway, Bhopal, MP in terminating the services of Shri Premnarayan Halkooram, Ex-Chowkidar *w.e.f.* 28-7-89 is illegal.
- (2) Order of dismissal of Ist Party workman is set-aside. IInd Party is directed to treat deceased workman in deemed service till his death. The deceased workman is not entitled to back wages for the period of his dismissal till his death.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 35.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/26/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-40011/29/2004-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 35.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/26/2005) of the Cent. Govt. Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL and their workman, which was received by the Central Government on 19/12/2013.

[No. L-40011/29/2004-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/26/2005

Presiding Officer: Shri R.B. Patle
Shri Baban Singh,
Circle Secretary,

National Union of BSNL workers,
Type-2/86, P&T Colony, Gada Road,
Jabalpur

...Workman/Union

Versus

Chief General Manager,
Telecom Factory, Wright Town,
Jabalpur

...Management

AWARD

(Passed on this 18th day of July, 2013)

1. As per letter dated 23.3.2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40011/29/2004-IR(DU). The dispute under reference relates to:

"Whether the action of the management of the Chief General Manager, Telecom Factory, Wright Town, Jabalpur to recover Bonus for the period of suspension *viz* 31.5.95 to 11.3.96 in two instalments after awarding punishment *vide* order dated 4.12.96 from Shri Baban Singh T.No. 3120 (Fitter Grade-II) is just and fair? If not, to what relief the workman is entitled.

2. Ist Party workman is challenging recovery of bonus during suspension period from management in the dispute under reference. Even after issuing notices, the Union did not participate in the proceeding, no statement of claim is filed. Ist Party is proceeded *ex parte* on 7.2.2007.

3. IInd Party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:

"Reference is disposed off as No Dispute Award."

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 36.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य महाप्रबंधक, दूरसंचार विभाग, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/108/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/57/2001-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 36.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/108/2001) of the Cent. Govt. Industrial Tribunal/

Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Chief General Manager, Deptt. of Telecommunication, Bhopal and their workmen, which was received by the Central Government on 19/12/2013.

[No.L-40012/57/2001-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/108/2001

Presiding Officer: Shri R.B. Patle

Shri Suresh Chandra Jatav,
S/o Shri Mangla Ram Jatav,
Village and Post Tantra,
Tehsil Sabalgarh,
Distt. Morena (MP)

...Workman

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
MP Circle,
Bhopal (MP)

...Management

AWARD

(Passed on this 23rd day of July 2013)

1. As per letter dated 29.5.2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/57/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Chief General Manager, Telecom Divisional Engineer, Telegraphs, Gwalior in terminating the services of Shri Suresh Chandra Jatav S/o Shri Mangla Ram Jatav *w.e.f.* 1.5.88 is justified? If not to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed statement of claim at Page 2/1 to 2/5. The case of Ist Party workman is that he was appointed as labour on estt. of IInd Party at Morena from 18.11.86. Said division was transferred to Bhind on 30.4.88. The workman was continuously working till that time. His name was called from Employment Exchange. The office of IInd Party is in possession of the relevant record. Identity Card was issued to him. He had completed service for more than 240 days. His services were terminated without notice, without payment of retrenchment compensation or one months pay in lieu of notice in violation of provisions of I.D. Act workman further submits

that his services were transferred to contractor from 1.5.88. He claims that he was illegally retrenched. He had filed writ petition in Hon'ble High Court, Gwalior bench. The dispute was referred as per the order passed by Hon'ble Court. Workman prays for his reinstatement with consequential benefits.

3. IInd Party filed Written Statement at Page 6/1 to 6/3. Case of IInd party is that Ist party workman was engaged as casual labour as per the need. He was not appointed against any post. That the workman had not completed 240 days service. Notice for termination of service was not necessary. There was no question of paying retrenchment compensation. Workman is not entitled to protection of I.D. Act. On such grounds, IInd Party prays for rejection of the relief prayed by workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:

(i) Whether the action of the management of Chief General Manager, Telecom Divisional Engineer, Telegraphs, Gwalior in terminating the services of Shri Suresh Chandra Jatav S/o Shri Mangla Ram Jatav <i>w.e.f.</i> 1.5.88 is legal?	In Affirmative
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(ii) If so, to what relief the workman is entitled to?	Relief prayed by workman is rejected.
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REASONS

5. Though the workman is challenging legality in termination of his service on the ground of violation of provisions of I.D. Act, he has filed affidavit of his evidence claiming that he had completed service for more than 240 days. His services were terminated without notice, without paying retrenchment compensation. That he was working with IInd Party from 18.11.86 to 30.3.88. The workman remained absent and not made available for cross-examination by the IInd Party and case was proceeded without cross-examination on 19.1.2011. The management filed affidavit of its witness Shri R.C. Chourasiya. The witness says that the telegraph department is merged in BSNL. The department was engaging contractors for the works. The workman was not concerned with the department. The evidence of the management's witness remained unchallenged. Thus the workman has not participated in the reference proceeding. He has not made available for cross-examination. Neither he has availed opportunity to cross-examine the management witness. There is no reason to disbelieve evidence of management's witness. Workman failed to establish that he had completed 240 days prior to termination. Therefore I record Point No. 1 in Affirmative. In view of my finding in Point No. 1, workman is not entitled to relief prayed by him. Therefore I record Point No. 1 in Negative.

6. In the result, award is passed as under:—

- (1) The action of the management of Chief General Manager, Telecom Divisional Engineer, Telegraphs, Gwalior in terminating the services of Shri Suresh Chandra Jatav S/o Shri Mangla Ram Jatav *w.e.f.* 1.5.88 is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 37.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी०पी०डब्ल्यू०डी० भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/112/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-42011/41/93-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 37.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/112/97) of the Cent. Govt. Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD, Bhopal and their workman, which was received by the Central Government on 19/12/2013.

[No. L-42011/41/93-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/112/97

Presiding Officer: Shri R.B. Patle

Shri Basantrao,
S/o Shri Anajdrao,
C/o Om Kirana Stores,
Distt. Sihore

Shri Kailash Malviya,
S/o Shri Kurrulal,
C/o Om Kirana Stores, Budhani,
Distt. Sihore (MP)

...Workmen

Versus

The Executive Engineer,
CPWD, Bhopal Central Division,
Bhopal (MP)

...Management

AWARD

(Passed on this 10th day of July 2013)

1. As per letter dated 10.4.97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42011/41/93-IR(DU). The dispute under reference relates to:

"Whether the action of the management of the PWD, Bhopal Central Division, Bhopal in terminating the services of Shri Kailash Malviya and Shri Basant Rao is legal and justified? If not, to what relief the workmen are entitled?"

2. After receiving reference, notices were issued to the parties. Ist Party workman Shri Basant Rao submitted his statement of claim at Page 3/1 to 3/3. Shri Kailash Malviya submitted his statement of claim at Page 9/1 to 9/3.

3. The case of Ist Party workman Shri Basant Rao is that he was appointed on vacant post of mason from 3.1.90. He was performing his duties satisfactorily. His services were orally terminated from 1.12.92 without assigning any reason. That no enquiry was conducted against him before termination of his services. Chargesheet was not served on him. He was not served with notice. Retrenchment compensation was not paid to him. He has completed 240 days continuous service preceding his termination. That his services are terminated in violation of Section 25-F of I.D. Act. On such ground, he prays for reinstatement with consequential benefits.

4. The case of Ist party kailash Malviya is that he was appointed as Carpenter from 1.7.77. He was satisfactorily performing his duties. His services was orally terminated from June 1993 without assigning any reason. No chargesheet was issued to him. Domestic enquiry was not held against him. He has completed 240 days continuous service preceding his termination. He was not paid retrenchment compensaiton. Other employees are appointed after his termination. That he had acquired status of temporary employee. The termination of service was not informed to Government. Other persons are employed in his place. On such ground, he is praying for reinstatement with back wages.

5. IInd party filed written statement at page 7/1 to 7/6. It is submitted that the reference of dispute is not legal. It is liable to be rejected on the ground that once Govt. of India exercised power and reach to conclusion that workman were awarded work on contractual basis, their contracts were terminated after the contract period was over. The Industrial dispute doesnot exist for adjudication. Both the workmen were engaged on contractual basis on PWD Form-II. It relates to miscellaneous jobs carried through out these forms for specific period of work. That junior engineer maintained attendance only for his convenience and to

facilitate him to award daily output of work. The document is not authentic. It is not signed by Executive Engineer of CPWD. That in CPWD, works are executed through calls of tenders on PWD Form 7 & 8 and small contracts are executed on call of quotations on PWD Form-11. The contractual work order for each 3 months were issued during 1.11.90 to 31.7.91. It does not vest any right for the regularization of the workman. That procedure is prescribed for recruitment of employees sending requisition to Employment Exchange giving the particulars without considering other persons for employment. The regularization of services would be violative of Article 14 of the constitution. It may also amount to back door entry. On such grounds, IInd Party prays for rejection of relief prayed by Ist Party workman.

6. Rejoinder is filed by workman at Page 12. IInd Party filed rejoinder at Page 10. Both the parties reiterate their earlier contentions. Ist Party prayed for reinstatement with back wages. IInd Party prayed for its rejection.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of the PWD, Bhopal Central Division, Bhopal in terminating the services of Shri Kailash Malviya and Shri Basant Rao is legal? | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

8. Ist party workman Kailash Malviya filed affidavit of evidence at Page 20/1 to 20/2. However he failed to make available for his cross-examination. Therefore his evidence cannot be considered in the matter. Ist Party Basant Rao filed affidavit of evidence at Page 21/1 to 21/2. He has stated that he was working in CPWD Sub Division, Hoshangabad from 1990. His services were terminated without notice from March 1992. That Junior Engineer was maintaining his attendance in Muster Roll. He denied to have been engaged as a contractor. That he had completed 240 days continuous service preceding his termination. His services were terminated without notice or without paying retrenchment compensation. In Written Statement filed by IInd Party, it is stated that Junior Engineer was maintaining attendance in Muster roll for his convenience and for supervision of his work. Thus the evidence of Shri Basant Rao is corroborated from pleading in written Statement filed by IInd Party. In his cross-examination, Shri Basant Rao says that Satish Upadhyay, Jr. engineer has engaged him in work. Shri Satish was acquainted with him since past. He has produced zerox copy of muster roll

supplied to him by Mr. Patel. He denied suggestions that he was engaged on contract basis. He has stated that he continued on work till repairing work was continued. He was paid wages.

9. The evidence of management's witness Shri M.K. Lawahe tried to support claim of IInd Party. The witness of the management says that the both workman were engaged purely on contractual basis in PWD Form 11 being a contractual form for small urgent type of miscellaneous jobs for specific period of work. The period mentioned by them is fictitious, they were engaged on contractual PWD Form 11 for specific period of work. Workman were never employed by management but were granted contract for particular work. Management's witness did not make available for cross-examination. Affidavit of management's witness Shri Manish Kumar was filed by management. He also did not make available for cross-examination. Last affidavit of Shri Manish Kumbhare is filed. He has stated that concerned workmen were engaged purely on contractual basis, work was allotted for specific period. They have never completed 240 days continuous service in a calendar year. That workman were not sponsored through Employment Exchange. In his cross-examination, witness says he personally does not know the workmen. He is working in CPWD from April 2003. That the photocopy of attendance register is produced but attendance register was not issued. He further says that he identifies the register and document is marked as Exhibit W-1. In document Exhibit W-1 attendance of both workmen is maintained for the period from November 1990 to July 1991 for period of 9 months. The attendance was maintained in muster roll by CPWD office. The copy of muster roll for remaining period are not produced by the management. As such the material evidence is withheld. The evidence of workman is supported by document Exhibit W-1. That they were continuously working for more than 240 days preceding their termination. The services of both the workmen are terminated without paying retrenchment compensation or issuing notice. Therefore the termination of their services amounts to illegal retrenchment being in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No. 1 in negative.

10. Point No. 2-In view of my finding in Point No. 1 that termination is illegal, the question arises as to what relief the workman is entitled. The workmen were working for short period of 2-3 years. They were not appointed as regular employee following procedure. Therefore they are not entitled for reinstatement of their services. However their termination is in violation of Section 25-F of I.D. Act, therefore they are entitled to reasonable compensation. In my considered view, compensation Rs. 50,000/- to each of the workmen would be appropriate. In addition to it, they are also entitled to notice pay equal to one month wages and

retrenchment compensation for 30 days to each workmen.

11. In the result, award is passed as under:—

1. Action of the management of the PWD, Bhopal Central Division, Bhopal in terminating the services of Shri Kailash Malviya and Shri Basant Rao is illegal.
2. IInd party management is directed to pay Rs. 50,000/- as compensation, one month notice pay and retrenchment compensation of 30 days to each of the workmen at the rate of last wages paid to them.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer.

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 38.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, वाहन कारखाना, जबलपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/194/90) प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-14012/2/90-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 38.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/194/90) of the Central Govt. Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The General Manager, Vehicle Factory Jabalpur and their workmen, which was received by the Central Government on 19/12/2013.

[No. L-14012/2/90-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/194/90

Presiding Officer: Shri R.B. Patle

Shri Om Prakash,
S/o Shri D.P. Baheliya,
Qr. No. 376/1, Panehara,
Type-II, G.C.F. Estate,
Jabalpur

..... Workman

Versus

The General Manager,
Vehicle Factory,
Jabalpur

..... Management

AWARD

(Passed on this 10th days of July 2013)

1. As per letter dated 28.9.90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14012/2/90/IR(DU). The dispute under reference relates to:

"Whether the action of the management of Vehicle Factory, Jabalpur (MP) in terminating the services of Shri Om Prakash Ex-Messenger Boy, T.No. 2047/NIEE w.e.f. 28.3.81 is justified? If not, what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted his statement of claim at Page 3/1 to 3/3. The case of Ist Party workman is that he was appointed as messenger boy on 22.9.72 in Vehicle Factory, Jabalpur. Because of his medical illness, he remained absent for few days. He was issued with chargesheet for unauthorized absence from duty during the period 8.6.80 to 29.6.80. Another chargesheet was issued to him on 22.3.82. Court of enquiry was ordered. On the basis of report of enquiry, punishment of removal from service was imposed on workman. He submits that in both enquiry, no opportunity of defence was given to him. Enquiry was held exparte. The workman sent intimation to authorities regarding his illness. Without considering his representation, workman was removed from service. That workman suffering from mental sickness and without understanding consequences could not participate in the enquiry. The management knowing fully about his mental illness, should have given proper opportunity for his defence. Instead of doing so, exparte enquiry was conducted and workman was removed from service. The workman submitted necessary leave application supported by medical certificate. The charges are not proved against him. That before imposing punishment, so called notice alongwith findings was not served to the workman. The punishment is harsh considering the facts of the case. The action of the management is unjustified. On such grounds, workman prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 5/1 to 5/4. It is submitted that Ist Party workman was unauthorisely absent from duty from 8.6.80 to 29.7.80. Chargesheet was issued. Shri N.K. Pandey Foreman was appointed as Enquiry Officer. The workman admitted charge. Enquiry Officer hold that charge against workman are established. The workman again remained absent from 3.8.80 without intimation to the office. The enquiry was

conducted as per CCS Rules. Workman was removed from service for unauthorized absence. The dispute is referred after 8½ years. It deserves no consideration. IInd party prays for rejection of reliefs claimed by workman.

4. Ist party filed rejoinder at page 6/1 to 6/2 reiterating his contention in statement of claim and prays for his reinstatement with back wages.

5. As per order dated 5.12.2011, enquiry conducted against Ist party workman is found legal. The parties were given liberty to adduce evidence on other issues. Other issues are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---|
| (i) Whether the management is entitled to lead evidence before this Tribunal? | Doesnot survive as enquiry is held legal |
| (ii) Whether the charges of misconduct are proved on facts of the case. | Charges are proved. |
| (iii) Whether the punishment awarded is proper and legal? | Punishment of removal from service is not proper and legal. It is modified as per final order |
| (iv) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

6. Issue No. 2—

As per order dated 5.12.2011, enquiry held against workman is found valid. Therefore there is no question of proving misconduct against workman adducing evidence before this Tribunal by the management.

7. Issue No. 3—

Issue No. 3 relates to whether misconduct against workman are proved. The enquiry was proceeded exparte. In his affidavit of evidence, workman has stated that chargesheet under Rule 14 of CCS Rule 1965 was issued to him for unauthorized absence for the period from 8.6.80 to 29.7.80 and IInd chargesheet for absence from 3.8.80 onwards. Workman has not disputed. He was absent from duty during above period. Only he had contented that he has submitted application with medical certificate but any document in that regard were not available with him and he could not produce such document before the Enquiry officer. When no leave application was submitted or medical certificate produced, the charge of unauthorized absence from duty is established. The management's witness Shri K.L. Bahal in his evidence has stated that the delinquent was absent from duty during above said period. His absence was unauthorized. Two charges were issued to him. The documents are produced. In his cross-examination, management's witness says he has stated about the notices

issued to the workman on both addresses of workman. His evidence is fully devoted to the legality of the Enquiry proceeding. The evidence on record and evidence in Enquiry proceeding doesnot show that application for leave was submitted by the workman. In absence of application of leave, his leave is unauthorized, charges against workman is therefore established.

8. Issue No. 4—it relates to propriety and legality of punishment of removal. As per the chargesheets issued to the workman, he was absent from duty during the period 8.6.80 to 29.7.80 and from 3.8.80 onwards. The first period of unauthorized absence is 1 month 22 days and IInd spell of unauthorized absence is about 2 months. While imposing punishment of removal, the Disciplinary Authority did not consider that workman was in service from 1982, whether any kind of leave were at his account. The past conduct of the workman is not discussed, no evidence is adduced by the management of IInd party that the workman remained auauthorisely absent in the past. Provisions of CCS Rules providing punishment are not discussed by the Disciplinary Authority. At the time of argument, learned counsel for IInd party Mr. Shashi clearly submits that different kinds of punishment are provided and the punishment of removal is extreme punishment. Considering the proved misconduct for two months, the punishment of removal from service is not justified. It cannot be sustained. Denial of 75% back wages will be adequate punishment. Accordingly I hold and record my finding on Issue No. 4.

9. In the result, award is passed as under:—

1. The action of management of Vehicle Factory, Jabalpur (MP) in terminating the services of Shri Om Prakash Ex-Messenger Boy w.e.f. 28.3.81 is illegal.
2. IInd party management is directed to reinstate workman Shri Om Prakash with 25% back wages.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer.

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 39.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार एम एस साईटिफिक सिक्कोरिटी मैनेजमेंट सर्विस लि० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, हैदराबाद के पंचाट (29/12) प्रकाशित करती है जो केन्द्रीय सरकार को 19.12.2013 को प्राप्त हुआ था।

[सं० एल-12011/29/2011-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 39.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 29/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s Scientific Security Management Service P. Ltd. and their workmen, recieved by the Central Government on 19/12/2013

[No. L-12011/29/2011-IR(B-II)]
RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM - LABOUR COURT AT HYDERABAD

PRESENT: SMT. M. VIJAYALAKSHMI,
Presiding Officer

Dated the 5th day of September, 2013

INDUSTRIAL DISPUTE NO. I.D. 29/2012

Between:

The President,
Vijayawada Security Guards Union,
Pameedat Bhawan, Tadankivari Street,
Governorpet,
Vijayawada-2.Petitioner

AND

The Regional Manager,
M/s. Scientific Security Management Service P. Ltd.,
P.B. No. 27, Balaram Rai Society, Mahindra Hills,
East Maredpally,
Secunderabad-26.Respondent

Appearances:

For the Petitioner : NIL
For the Respondent : NIL

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/29/2011-IR(B-II) dated 31.7.2012 referred the following dispute between the management of M/s. Scientific Security Management Service P. Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"Whether the demand of Vijayawada Security Guards Union against the contractor M/s. Scientific Security management Services Pvt. Ltd., for payment of bonus to the security guards engaged in Punjab National Bank ATMs Vijayawada for the accounting years

2007-08, 2008-09 and 2009-10 is proper and justified? What relief the concerned workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 29/2012 and notices were issued to the parties.

2. The case stands posted for appearance of Petitioner union and for filing of claim statement and documents. Petitioner union called absent and there is no representation. Notice issued to the Petitioner union returned unserved with the endorsement, 'Whereabouts not known' and notice issued to the Respondent returned served. In view of the report received that whereabouts of the Petitioner union are not known, there is no possibility of the service of notice to the Petitioner union. In the circumstances, Petition is closed. Nil Award is passed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 5th day of September, 2013.

M. VIJAYALAKSHMI, Presiding Officer.

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 दिसम्बर, 2013

का०आ० 40.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार एम एस ए पी सिक्वोरिटी प्राइवेट लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय हैदराबाद के पंचाट (52/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 19/12/2013 को प्राप्त हुआ था।

[सं० एल-12012/29/2011-आई आर (बी-II)]
रवि कुमार, अनुभाग अधिकारी

New Delhi, the 19th December, 2013

S.O. 40.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 52/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial

dispute between the management of M/s. A.P. Security Pvt. Ltd. and their workmen, received by the Central Government on 19/12/2013.

[No. L-12012/120/2011-IR(B-II)]
RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT: SMT. M. VIJAYALAKSHMI,

Presiding Officer

Dated the 16th day of September, 2013

INDUSTRIAL DISPUTE NO. I.D. 52/2012

Between:

Sri Sd. N. Basha,
General Secretary,
United Security Guards Union,
D.No.41-1/12-57/A, Nehru Nagar,
Krishna Lanka,
Vijayawada.

.....Petitioner

AND

Managing Director,
M/s. A.P. Securities Pvt. Ltd.,
APS House, 10, DDA Commercial Complex,
Nangal Raya,
New Delhi—110046.

.....Respondent

Appearances:

For the Petitioner: Nil

For the Respondent: M/s. K. Satyanarayana Rao & Raj
Kishan Mehra, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/120/2011-IR(B-II) dated 22.6.2012 referred the following dispute between the management of M/s. A.P. Securities Pvt. Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"Whether the action of the management of M/s. A.P. Securities Pvt. Ltd., a contractor of Vijaya Bank, Vijayawada, in terminating the services of Shri Sd. N. Basha, Security Guard *w.e.f.* 1.5.2011 without adhering the provisions of ID Act, 1947 is legal and justified? What relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 52/2012 and notices were issued to the parties.

2. The case stands posted for appearance of Petitioner and for filing of claim statement and documents. Petitioner called absent and there is no representation. inspite of giving notice time and again and the same being returned served, Petitioner is not appearing before the court and he has not filed any claim statement which shows that he is not interested in the proceedings. In the circumstances, taking that Petitioner is not interested in the proceedings, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 16th day of September, 2013.

M. VIJAYALAKSHMI, Presiding Officer.

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 41.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं भवानी इलेक्ट्रिकल्स कांटेक्टर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 14/2013) प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-29011/30/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 41.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 14/2013) of the Cent. Govt. Indus. Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Bhawani Electricals Contractor and their workman, which was received by the Central Government on 18/12/2013.

[No. L-29011/30/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

SH. N.K. PUROHIT, Presiding Officer

I.D. 14/2013

Reference No. L-29011/30/2012 IR(M) dated: 29.10.2012

The President

Managalam Cement Karamchhari Union

Morak, Kota (Raj.)

V/s

1. The Factory Manager
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s Bhawani Electricals Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant union : Sh. Mayank Kumar Chaudhary

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s Bhawani Electricals Contractor, a contractor engaged by M/s Mangalam Cement Limited, Morak, Kota in not paying wages to 19 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workmen are entitled to and from which date?"

2. Pursuance to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labour working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement on 26.6.2013 & grievances of the applicant union

representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be dispose of.

5. The Id. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the Settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 42.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं अरावली इंजीनियरिंग वर्क्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 15/2013) को प्रकाशित करती है, जो केंद्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-29011/32/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 42.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2013) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Aravali Engineering Works and their workmen, which was received by the Central Government on 18/12/2013.

[No. L-29011/32/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

Shri N.K. PUROHIT, Presiding Officer

I.D. 15/2013

Reference No. L-29011/32/2012 (IR(M)) dated: 29.10.2012

The President

Mangalam Cement Karamchari Union

Morak, Kota (Raj.)

V/s

1. The Factory Manager
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Aravali Engineering Works
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant union : Sh. Mayank Kumar Chaudhary

For the non-applicants : Sh. Rupin Kala

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Dispute Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s. Aravali Engineering Works, a contractor engaged by M/s Mangalam Cement Limited, Morak, Kota in not paying wages to 74 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workmen are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.06.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement

on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the Settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further and they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 43.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं तिरुपति इंजीनियरिंग वर्क्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 92/2012) को प्रकाशित करती है, जो केंद्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं एल-29011/31/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 43.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 92/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Tirupati Engineering Works and their workmen, which was received by the Central Government on 18/12/2013.

[No. L-29011/31/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Shri N.K. PUROHIT, Presiding Officer

I.D. 92/2012

Reference No. L-29011/31/2012 (IR(M)) dated: 29.10.2012

The President

Mangalam Cement Karamchari Union
Morak, Kota (Raj.)

V/s

1. The Factory Manager
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Aravali Engineering Works
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant union : Sh. Mayank Kumar Chaudhary

For the non-applicants : Sh. Rupin Kala

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Dispute Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s. Tirupati Engineering Works, a contractor engaged by M/s. Mangalam Cement Limited, Morak, Kota in not paying wages to 131 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workmen are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim with documents.

3. At the stage of filing reply to the claim statement a joint application was filed by both the parties on 28.06.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement

on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the Settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 44.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं धाकड़ इंटरप्राइजेज के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 93/2012) को प्रकाशित करती है, जो केंद्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं एल-29011/33/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 44.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Dhakad Enterprises and their workmen, which was received by the Central Government on 18/12/2013.

[No. L-29011/33/2012-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Shri N.K. PUROHIT, Presiding Officer

I.D. 93/2012

Reference No. L-29011/33/2012 [IR(M)] dated: 29.10.2012

The President

Mangalam Cement Karamchari Union
Morak, Kota (Raj.)

V/s.

1. The Factory Manager
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Dhakad Enterprises
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant union : Sh. Mayank Kumar Chaudhary.

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Dispute Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s Dhakad Enterprises, a contractor engaged by M/s Mangalam Cement Limited, Morak, Kota in not paying wages to 111 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workmen are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their

joint application that they have entered into a settlement on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the Settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

कांआ 45.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं एस्के जैन कंटेक्स्टर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 94/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं एल-29011/34/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 45.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the industrial dispute between the Employers in relation to the management of Mangalam Cement Ltd., Kota & S.K. Jain Contractor and their workman, which was received by the Central Government on 18.12.2013.

[No. L-29011/34/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Sh. N.K. PUROHIT, Presiding Officer

I.D. 94/2012

Reference No. L-29011/34/2012 [IR(M)] dated: 28.10.2012

The President

Managalam Cement Karamchari Union
Morak, Kota (Raj.)

V/s

1. The Factory Manager,
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. S.K. Jain Contractor
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant Union : Sh. Mayank Kumar Chaudhary.

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s. S.K. Jain Contractor, a contractor engaged by M/s. Mangalam Cement Limited, Morak, Kota in not paying wages to 41 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workman are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexure mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement

on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 46.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं खंडेलवाल कंस्ट्रक्शन कंपनी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 95/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं० एल-29011/28/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 46.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the industrial dispute between the Employers in relation to the management of Mangalam Cement Ltd., Kota & Khandelwal Construction Company and their workman, which was received by the Central Government on 18.12.2013.

[No. L-29011/28/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Sh. N.K. PUROHIT, Presiding Officer

I.D. 95/2012

Reference No. L-29011/28/2012 IR(M) dated: 28.10.2012

The President

Managalam Cement Karamchari Union

Morak, Kota (Raj.)

V/s

1. The Factory Manager,
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Khandelwal Construction Company
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant Union : Sh. Mayank Kumar Chaudhary.

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s. Khandelwal Construction Company, a civil maintenance contractor engaged by M/s. Mangalam Cement Limited, Morak, Kota in not paying wages to 10 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workman are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement

on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर, 2013

का०आ० 47.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं डेल्टा सिक्यूरिटी कांटेक्टर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट संदर्भ संख्या (96/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.12.2013 को प्राप्त हुआ था।

[सं० एल-29011/27/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 47.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 96/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Delta Security Contractor and their workman, which was received by the Central Government on 18.12.2013.

[No. L-29011/27/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

Sh. N. K. PUROHIT, Presiding Officer

I.D. 96/2012

Reference No. L-29011/27/2012 IR(M) dated: 28.10.2012

The President

Managalam Cement Karamchari Union
Morak, Kota (Raj.)

V/s

1. The Factory Manager,
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Delta Security Contractor,
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT:

For the Applicant Union : Sh. Mayank Kumar Chaudhary.

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s. Delta Security Contractor, a contractor engaged by M/s. Mangalam Cement Limited, Morak, Kota in not paying wages to 20 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workman are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement

on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Id. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर 2013

का०आ० 48.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मंगलम सीमेंट लिमिटेड कोटा एवं रामजी लाल कांटेक्टर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 97/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं एल-29011/29/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 48.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 97/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mangalam Cement Ltd., Kota & Ramji Lal Contractor and their workman, which was received by the Central Government on 18/12/2013.

[No. L-29011/29/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Sh. N.K. PUROHIT, Presiding Officer

I.D. 97/2012

Reference No. L-29011/29/2012-IR(M)

dated: 29.10.2012

The President
Mangalam Cement Karamchari Union
Morak, Kota (Raj.)

V/s

1. The Factory Manager
Mangalam Cement Ltd.
Morak, Kota (Raj.)
2. M/s. Ramji Lal
Contractor,
Mangalam Cement Ltd.
Morak, Kota (Raj.)

PRESENT

For the Applicant Union : Sh. Mayank Kumar
Chaudhary.

For the non-applicants : Sh. Rupin Kala.

AWARD

28.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s Ramji Lal, a contractor engaged by M/s. Mangalam Cement Limited, Morak, Kota in not paying wages to 17 contract labourers (list enclosed) as per 'Cement Wage Board', is legal & justified? What relief the concerned workmen are entitled to and from which date?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On behalf of the applicant union President, Sh. Badrilal put his appearance on 13.3.2013 & filed the statement of claim on the next date i.e. 8.5.2013.

3. At the stage of filing annexures mentioned in the statement of claim, a joint application was filed by both the parties on 28.6.2013 for withdrawal of the dispute referred to this tribunal on the ground of settlement entered into between the parties on 26.6.2013. The copy of the said settlement has also been placed on the record.

4. The dispute pertains to as to whether labours working under the contractor are entitled to wages as per

Central Wage Board. Both the parties have stated in their joint application that they have entered into a settlement on 26.6.2013 & grievances of the applicant union representing the contract labours have been resolved & now, no dispute exists between the parties, therefore, case may be disposed of.

5. The Ld. Representatives on behalf of both the parties submit that since, dispute raised by the applicant union has been resolved & a settlement has been entered into between the parties on 26.6.2013, therefore, the award may be passed in terms of the said settlement. They also submit that the settlement dated 26.6.2013 has been registered in the Office of Regional Labour Commissioner, Kota in the Settlement Register. In this regard, the copy of the letter of the RLC, Kota dated 27.6.2013 has been placed on record.

6. Since, dispute between the parties have been resolved & parties have entered into a settlement on 26.6.2013, there remains no dispute between the parties. Both the parties do not want to contest the case further & they have requested to pass the award in terms of the settlement dated 26.6.2013.

7. In view of above, the award is passed in terms of the settlement dated 26.6.2013 Annexure-'A'. The said settlement Annexure-'A' will be part of the award. The reference under adjudication is answered accordingly.

8. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 20 दिसम्बर 2013

का०आ० 49.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार तिरुपति स्टोन प्राइवेट लिमिटेड उदैपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 78/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-29012/21/2012-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 20th December, 2013

S.O. 49.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. 78/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tirupati Stone Pvt. Ltd., Udaipur and their workman, which was received by the Central Government on 18/12/2013.

[No. L-29012/21/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

N.K. PUROHIT, Presiding Officer

I.D. 78/2012

Reference No. L-29012/21/2012-IR(M) dated: 20.7.2012

Ram Chandra Meena
S/o Shri Dhiraji Meena
VPO Kagdar, Fala Khandagodha,
The. Rishabhdev, Distt: Udaipur.

V/s

1. The Managing Director,
M/s Tirupati Stone Pvt. Ltd.
"Mangal Deep", 2, Panchwati,
Udaipur.

PRESENT

For the applicant : Ex-party

For the non-applicant : Sh. Rammanohar Sharma

AWARD

25.6.2013

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of M/s Tirupati Stone Pvt. Ltd. in terminating the services of Shri Ram Chandra Meena *w.e.f.* 1.1.2010 without following the principles of natural justice without any notice pay & other terminal benefits is legal & justified? What relief the workman is entitled to?"

2. Pursuant to the receipt of the reference, registered notices were issued to both the parties. On 2.11.2012 the workman Sh. Ramchandra put his appearance & sought time for filing his statement of claim but on subsequent dates 22.1.2013, 18.3.2013 & 21.5.2013, neither the workman nor his representative appeared to file statement of claim. Therefore, ex-party proceedings were drawn against the workman on 21.5.2013.

3. Since the workman has not filed his statement of claim the non-applicant has not adduced any evidence.

4. Heard the Ld. Representative for the non-applicant.

5. The workman has not appeared to file his claim statement & ex-party proceedings have been drawn against him. Under these circumstances, no material could be brought on record for adjudication of the reference order

under consideration on merits. It appears that the workman is not willing to contest the case therefore, "No Dispute Award" is passed. The reference under adjudication is answered accordingly.

6. Award as above.

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 50.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुरक्षा पेपर मिल, होशंगाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/190/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-16011/3/95-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 50.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. CGIT/LC/R/190/96) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Security Paper Mill, Hoshangabad and their workman, which was received by the Central Government on 23/12/2013.

[No. L-16011/3/95-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/190/96**

SHRI R.B. PATLE, Presiding Officer

General Secretary,
Security Paper Mill Karmchari Union,
Hoshangabad ...Workmen/Union

Versus

General Manager,
Security Paper Mill,
Hoshangabad (MP) ...Management

AWARD

(Passed on this 20th day of September, 2013)

1. As per letter dated 30-9-96/ 1-10-96 by the

Government of India, Ministry of labour, New Delhi the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-16011/3/95-IR(DU). The dispute under reference relates to:

"(a) Whether the action of the management of SPM in imposing the penalty of reduction of pay by one stage from Rs. 1760/- to 1720/- per month in Pay Scale of Rs. 1350-2200 for a period of one year on Shri S. M. Bhowate, Welder, as well as stoppage of his increment during penalty period is justified? If not, to what relief the workman is entitled to?"

(b) whether the action of the management of SPM in stopping two increments in respect of Shri Shobaram Patel and Shri S.G. Goswami is justified or not? If not, to what relief the workmen are entitled to.

(c) Whether the action of the management of SPM in imposing minor penalty on Shri M.M. Dhimole is legal and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the Parties However Ist Party workman failed to submit their statement of Claim on 16-11-2007. Ist Party workman was proceed exparte.

3. Management submitted Written Statement. The case of IInd party is that Security Paper Mill manufactures currency and Bank Note Paper is covered by item 21 of the First schedule to the I.D. Act, 1947 as such the Mill is a declared essential Public Utility Service. That the workman conducted open Munch in the vicinity of the Security Paper Mill. It created disturbance in the industry causing indiscipline and loss of production. It is alleged to be misconduct on behalf of 1st Party workman. As per the rules applicable to them the workman violated provisions of Central Civil Service Rules. The Union had not supported the case. Only workman has organized the open munch violating service rules. Shri S.M. Bhawate was issued memo dated 16-12-94 for violation of Rule 3(1)(ii) and (iii) of Central Civil Service Conduct Rules 1964. He was called upon to submit his explanation within 10 days. However Shri S.M. Bhawate did not seek time for submitting reply. There was no question of refusal to grant him time for filing reply. That penalty of reduction of pay by one stage *i.e.* 1760 to 1720 in Pay Scale Rs. 1350 to 2200 was imposed. Reduction was for a period of one year. The stoppage of increment is justified.

With respect to Shri Shobharam Patel and Shri H.G. Goswami, it is submitted that both the them had requested time for submitting their expalnation. Despite of time granted to them, they failed to submit reply/explanation. In absence of reply by those workmen, minor penalty of stopping two increments was imposed is legal. With respect to Ist Party workman Shri M.M. Dhimole, the chargesheet was issued

to him on 11-1-95. He did not submit his reply within 10 days. There was no question of issuing chargesheet to him. Before issue of chargesheet, the memorandum was issued to him. The reply was received on 25-2-95. Considering the reply; minor punishment was imposed on him is legal.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of management of SPM in imposing the penalty of reduction of pay by one stage from Rs. 1760/- to 1720/- per month in Pay Scale of Rs. 1350-2200 for a period of one year on Shri S.M. Bhowate, welder, as well as stoppage of his increment during penalty period is legal? In Affirmative

(ii) Whether the action of the management of SPM in stopping two increments in respect of Shri Shobaram Patel and Shri S.G. Goswami is legal? In Affirmative

(iii) Whether the action of the management of SPM in imposing minor penalty on Shri M.M. Dhimole is legal? In Affirmative

(iv) If not, what relief the workman is entitled to?" Relief prayed by workman is rejected.

REASONS

6. As per the terms of reference, the legality of punishment of reduction of pay of Shri S.M. Bhawate from Rs. 1760 to 1720 and stopping two increments of workmen Shri Shobaram Patel and Shri S.G. Goswami, minor penalty imposed on Shri M.M. Dhimole is referred for adjudication. However, the workmen failed to appear in the reference proceedings. Statement of claim is not filed on their behalf.

7. IInd Party filed Written Statement supporting the punishments imposed against all the workmen. It is submitted that the Ist Party workmen had not submitted reply/explanation to the memo. Shri Shobaram Patel and Shri S.G. Goswami though submitted their explanation to the memo, minor punishment withholding two increments were imposed. Reply received to the memo issued to Shri Dhimole was considered and minor punishment was imposed as per Annexure IV. It is submitted that the workmen had conducted open munch which amounts to misconduct. The production of the Security Paper Mill was affected. The management has filed affidavit of witness Shri K.N. Mahapatra supporting contentions in Written

Statement filed by IInd Party. The evidence of management's witness remained unchallenged as Ist Party workman failed to cross-examine the witness. I do not find reason to disbelieve unchallenged evidence of management's witness. Workman failed to submit their statement of claim or adduce any evidence to establish that the penalty imposed against them suffers from any kind of illegality. Therefore I recored my finding in Point No. 1, 2 & 3 in Affirmative.

8. In the result, award is passed as under:—

- (1) Action of the management imposing minor punishment on Ist Party workman is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 51.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड, रतलाम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/62/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/319/2001-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 51.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/62/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of BSNL, Ratlam and their workmen, which was received by the Central Government on 23/12/2013.

[No. L-42012/319/2001-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/62/2002

SHRI R.B. PATLE, Presiding Officer

Shri Gajadhar Singh,
S/o Shri Hemsingh
Village-Kudkela,
Tehsil-Dharmajgarh,
Raigarh (Chhattisgarh)

...Workman

Versus

Sub-Divisional Officer (Telegraphs),
BSNL, Raigarh,
Chhattisgarh,
Sub-Divisional Officer (Phones),
BSNL, Raigarh,
Chhattisgarh
General Manager,,
BSNL, Telephone Exchange,
Bilaspur (Chhattisgarh)Managements

AWARD

(Passed on this 13th days of September, 2013)

1. As per letter dated 1.4.2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/319/2001-IR(DU). The dispute under reference relates to:

"Whether the demand of Shri Gajadhar Singh, Ex-Casual Labour from the management of the Telecom Department (BSNL), Raigarh for reinstatement and his regularisation in service is justified? If not, to what relief the workman is entitled and from which date?"

2. After receiving reference, notices were issued to the parties. Ist Party workman submitted Statement of Claim at page 2/1 to 2/3. The case of Ist Party workman is that he had worked as casual labour on muster roll with IInd Party in 1990. He had worked during 1980 to 1983, 84 to 87 & in 1990. He claims to have worked more than 240 days during each of the calender year. That Smt. Budhiarin Bai and Pratapi Bai were part time labour in establishment of IInd Party in 1988. They were directed to be given temporary status as per order in Original Application No. 509/93 under the Departmental Regularisation Scheme of 1989.

3. That several casual labours were working in IInd party till 1995. None of them were regularized. Rajesh Kumar Kunwar and Keshav Prasad working under the IInd Party filed Original Application No. 96/95. Seeking regularization. Application had filed original application 467/97 before CAT, Jabalpur. The directions were given to the applicant to approach appropriate forum. Applicant submits that case of Rajkumar and Keshav Prasad is identical and therefore he is entitled to similar relief of temporary status/regularization.

4. IInd Party filed Written Statement at Page 10/1 to 10/4. Claim of Ist Party is opposed. That workman has raised industrial dispute alleging that his service were terminated without following due procedure under I.D. Act. That the respondent engaged workers for target works at various placed in rival. The workers were engaged on muster roll for specified period and works like for erecting lines and wires, laying under ground cables, dismantling of lines

and wires, providing long distance connection etc. on daily basis etc. The workers were employed on contract basis for specified period therefore they were never engaged on regular basis against regular sanctioned post. That after expiry of stipulated work, the services of casual labours were automatically terminated. They were again deployed to the work under mustering officer when work was available. The department had framed policy for conferring of temporary status of casual workers known as Casual Labours Grant of Temporary Status and Regularisation Scheme, 1989. The conditions were that the employee should be:—

- (a) Engaged prior to 30.3.1985,
- (b) Continuing as casual worker on 7.11.1989,
- (c) Have completed 240 days in a year.

The scheme was extended as per order dated 25.6.1993. The required criterias are:—

- (a) Having been engaged between 30.3.1985 to 22.6.1988.
- (b) Still continuing in the date of respective orders.
- (c) Not remained absent for more than 365 days *w.e.f.* the issue of respective orders.

5. IInd Party submits that except in 1987, workman had not completed 240 days service during the period of service. He is not fulfilling conditions for temporary status. Therefore he is not entitled for regularization of service. That Smt. Budhiarin and Smt. Pratapi Bai was in employment for longer period. The case of Rajesh Kumar and Keshav Prasad were also not similar. On such grounds, IInd Party submits that Ist Party workman cannot claim reliefs as similar relief is granted to above workers. On such grounds, IInd Party prays for rejection of claim of workman.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------------------------|
| (i) Whether the demand of Shri Gajadhar Singh, Ex-Casual Labour from the management of the Telecom Department (BSNL), Raigarh for reinstatement and his regularisation in service is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

7. As per terms of reference, Ist Party workman is challenging legality of his termination. He is also claiming regularization in service. However his statement of claim is fully devoted for regularization as per the casual labours regularization scheme.

8. IInd Party had denied claim of Ist Party contending that he is not fulfilling eligibility criteria. The affidavit of evidence is filed by workman. He has stated that he had worked for 303 days during 1980 to 83, 420 days from 1984 to 1987, 207 days from 1987 to 1988, 167 days from July 1987 to Dec., 1987 and 177 days during 1988. That he was required to work in the department in 1980. That he had completed 240 days continuous service preceding one year from 31.12.1988. He has further stated that his services were terminated without notice, retrenchment compensation was not paid. He was not granted temporary status as per the scheme.

9. In his cross-examination, workman says he had left service in December, 1988. That he was working as labour in BSNL. His name was in muster. He was paid wages. He had not received appointment letter. That he was working on all 30 days of the month. He admits that working days shown in Para-2 of his affidavit is six blocks is correct.

10. Management's witness Basant Xalxo in his affidavit of evidence has stated the working days of Ist Party workman from 1980 to 1988, in 1987 working days of workman were 315 days, till October, 1998, working days were 177. That there is no provision of regularization of casual workers directly. Unless temporary status is concurred on him. In his cross-examination, management's witness claims ignorance whether the entries of attendance was marked in the muster roll. He admits contents of para-6 that casual labours in muster roll was taken.

11. In present case as workman has admitted that he had left service in 1988, there was no question of giving notice under Section 25-F as argued by counsel for management.

12. Next question remains whether the workman is entitled for regularisation under the scheme of 1989. As per evidence in cross-examination of workman, he had left the job in December, 1988. The scheme was introduced from 7.11.1989. The copy is produced on record. The scheme prescribed various criterias for extending initially for temporary status to employees completing 240 days service as casual labour. The conferment of temporary status on a casual labour would not involve any change in his duties. Scheme also clearly provides that the employee is not entitled for casual status. Their services are terminated following conditons laid down in I.D. Act, 1947. Though evidence on record shows that workman had completed more than 240 days service in 1987, he himself left the service in December 1988 before the scheme for regularization of casual employees was introduced. The scheme cannot be given retrospective effect for giving temporary status to the workman. Therefore he is not entitled to any of the relief prayed by him. For above reasons, I record my finding in Point No. 1 in Negative.

13. In the result, award is passed as under:—

- (1) Termination of service of workman is not illegal, he is not entitled for regularization.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 52.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, रतलाम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी०जी०आई०टी०एल०सी०आर/68/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.12.2013 को प्राप्त हुआ था।

[सं एल-42012/242/2003-आईआर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 52.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/68/2004) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL, Ratlam and their workman, which was received by the Central Government on 23.12.2013.

[No. L-42012/242/2003-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/68/2004

SHRI R. B. PATLE, Presiding Officer

The Divisional Secretary,
National Union of Telecom
Employees Line Staff &
Group D Mundla Nayata (Palda),
Indore

...Workman

Versus

The Telecom District Manager,
BSNL, O/o TDM,
Ratlam

...Management

AWARD

(Passed on this 12th day of November, 2013)

1. As per letter dated 9.6.2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/242/2003-IR(DU). The dispute under reference relates to:

"Whether the action of the management of TDM, Ratlam in terminating the services of Shri Sitaram S/o Mangilal Bhati w.e.f. 31-12-89 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed Statement of claim at Page 7/1 to 7/3. The case of Ist Party workman is that he was working from 1984 till January 1990 with IInd Party. His services were terminated from 31-12-89. He was not served with notice, he was not paid retrenchment compensation, termination of his services is in violation of Section 25-F of I.D. Act. Principles of last come first go was not followed. Termination of his services is in violation of Section 25-G of I. D. Act. He has filed Petition No. 499/95 before CAT, Jabalpur. His petition was rejected for lack of jurisdiction. He was given liberty to approach appropriate forum. After following conciliation proceedings, the dispute is referred. On such contentions, he prays for reinstatement with consequential benefits.

3. IInd Party filed Written Statement at Page 8/1 to 8/3. Preliminary objection is raised that the dispute is referred after 10 years. Ist Paty workman was initially appointed in separate establishment under the Sub Divisional Officer, Phones Ratlam as well as SDOT Mandisor. Thereafter the workman voluntarily left the work. Other contentions of workman are denied. It is denied that the workman was terminated in violation of Section 25-F, G of I. D. Act, completion of 240 days is denied. According to IInd Party, it was work of deptt. after completion of work, work was transferred to other place. The dispute is not tenable. IInd Party prayed for rejection of claim.

4. Workman filed rejoinder at Page 9/1 to 9/3 reiterating his contentions in Statement of Claim. That he had completed more than 240 days continuous service preceding his termination. He was not paid retrenchment compensation. He was not served with notice of termination.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of TDM, Ratlam in terminating the services of Shri Sitaram S/o Shri Mangilal Bhati w.e.f. 31-12-89 is justified?	In Negative
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(ii) If not, what relief the workman is entitled to?"

As per final order.

REASONS

6. Workman is challenging termination for violation of Section 25-F, G of I.D. Act. That he was working in IInd Party from 1985 to December 1989. He had completed 240 days continuous service during each year. IInd Party denied those contentions of the workman. Workman filed affidavit of his evidence stating that he had completed 240 days continuous service preceding termination of his services. In his cross-examination, workman says that he was not given appointment letter. He had not obtained registration of Employment Exchange. The document in that regard is not produced. He denied that after completion of project, his service used to come to an end. He denied that he had left the work of project. It is denied that after completion of project work, he was directed to work in other division. He denied that he had not completed 240 days continuous service preceding his termination.

7. Management filed affidavit of evidence of witness Shri P. K. Jain witness of management has stated that workman had not completed 240 days continuous service. Workman was engaged as casual labour in 1987 as per need. In his cross-examination, workman says that he is working at Ratlam from 1-1-87. Workman did not work under him. He has not produced documents related to the dispute. He denies that workman was appointed as regular employee. The witness of the management says that payment of retrenchment compensation was not considered necessary. He has denied that workman has completed 240 days service.

8. The documents produced by workman are admitted by IInd Party In Exhibit W-1, 30 working days are shown in 1987. In W-2 working days during January to August 89 are shown 181 days. In W-3 working days from Sept. to October 89 are 51 days, in Exhibit W-4, working days in December 89 are shown 31 days. The total of working days comes to more than 240 days preceding termination of services of workman. Workman is covered under Section 25-B of I.D. Act. Workman was not served with notice. He was not paid retrenchment compensation. Termination of services of workman is in violation of Section 25-F of I.D. Act. Therefore I record my finding in Point No. 1 in Negative.

9. Point No. 2

In view of my finding in Point No. 1 that the termination of workman is illegal and in violation of Section 25-F of I.D. Act, question arises whether the workman is entitled for reinstatement with back wages. As per evidence, workman was working from 1985 to December, 1989 for about 4 years. His services are terminated in violation of Section 25-F. Workman was not appointed following selection process. His name was not sponsored through

Employment Exchange. Relief of reinstatement with back wages cannot be allowed. In my considered view, payment of reasonable compensation would be appropriate to meet the ends of justice. Compensation Rs. 50,000/- would be proper and reasonable. Accordingly I record my finding on Point No. 2.

10. In the result, award is passed as under :—

- (1) Action of the management of TDM, Ratlam in terminating the services of Shri Sitaram S/o Shri Mangilal Bhati w.e.f. 31.12.89 is not legal.
- (2) IInd Party is directed to pay compensation Rs. 50,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 53.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एम सी एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 28/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-22012/19/2011-आईआर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 23rd December, 2013

S.O. 53.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 28/2011) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lingaraj Area of MCL and their workmen, received by the Central Government on 23/12/2013.

[No. L-22012/19/2011-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

PRESENT : SHRI J. SRIVASTAVA, Presiding Officer,
C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 28/2011

Date of Passing Award-29th July, 2013

BETWEEN:

The General Manager,
Lingaraj Area of MCL,
At./Po. Deulbera Colliery,
Dist. Angul

... 1st Party
Management

And

The General Secretary, Talcher Coal
Mines Employees Union, At. Qrs. No. A/121,
Po. N.S. Nagar, Dist. Angul

... 2nd Party-Union.

APPEARANCES:

None ... For the 1st Party-Management

None ... For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of Lingaraj Area of MCL and their workmen in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 *vide* its letter No. L-22012/19/2011-IR(CM-II), dated 11.05.2011 in respect of the following matter :—

"Whether the action of the management of Lingaraj Area of MCL in creating wage disparity between Shri P.C. Sahoo and V.K. Upadhyay both JR DEO-Gr-D and not giving promotion to them as per the cadre scheme is appropriate and justified ? To what relief the workmen are entitled to" ?

2. The 2nd Party-Union espousing the cause of the workmen has filed statement of claim stating that both the workmen namely Shri Pravakar Sahoo and Shri Vijay Kumar Upadhya are presently working as Junior Data Entry Operator (DEO) in the office of the General Manager, Lingaraj Area, At./Po. Deulbera Colliery in the District of Angul, Orissa. Shri Pravakar Sahoo was appointed in the MCL on 29.3.1996 as land oustee in Bharatpur O.C.P. and then transferred to Kalinga O.C.P. on 1.4.1996. Shri Vijay Kumar Upadhya was appointed on 26.12.1996 on the death of his father and later transferred to Lingaraj Area and posted in Regional Store, Lingaraj Area. Shri Pravakar Sahoo and Shri Vijay Kumar Upadhyay were later selected on the post of E.D.P. (Tr.). Both of them worked as E.D.P. (Tr.) for one and half year and then their designation was changed to Junior Data Entry Operator (Tr.), Grade-E from 1.6.2004. Recently both of them have been promoted as Junior Data Entry Operator and joined the post on 30.3.2010 on protest. They have been working in the post of Junior Data Entry Operator (Tr.), Grade-E from 1.6.2004, but their basic pay has not been fixed properly on promotion. They were drawing more pay in their previous post, but their basic

pay has been fixed at the initial pay of the new post. Both of them are eligible to get Grade 'D' post in the same discipline after working in the job after one year and then they should get promotion as per the cadre scheme. In the E.D.P. cadre they should be retained for one year as trainee then they should get promotion to the next higher post and thereafter promotion after three years. Interestingly their pay which was reduced to the starting pay of the new post has been regularized in adopting the basic of NCWA-VIII with effect from 1.7.2006, but they were not paid arrear wages of differential pay. Again the Management did not consider their promotion as per cadre scheme and retained them in Grade-E post till now despite making repeated requests. This amounts to unfair labour practice. Therefore both the workmen should be regularized in the post they held on appointment as trainee after one year and their promotions should be allowed after consideration as per cadre scheme and their basic pay should be fixed at the corresponding scale of new post on placement.

3. The 1st Party-Management did appear in the case through its authorized representative, but did not file any written statement. As such the case was ordered to proceed *ex parte* against the 1st Party-Management and the 2nd Party-Union was called upon to adduce evidence in support of its claim. But the 2nd Party-Union failed to file any oral evidence. It has filed photostat copies of some documents along with its statement of claim, but these documents have not been proved and exhibited through oral evidence.

3. As per the schedule of reference the dispute consists of two parts:—

- (i) Whether the action of the Management of Lingaraj Area of MCL in creating wage disparity between Shri P.C. Sahoo and V.K. Upadhyay both Jr. DEO, Gr.-D is appropriate and justified ? and
- (ii) Whether the action of the Management of Lingaraj Area of MCL by not giving promotion to them as per cadre scheme is appropriate and justified ?

4. As regards the first part of the dispute the 2nd Party-Union has not raised any pleadings in its statement of claim. It has only alleged that the basic pay of both the workmen has not been protected and fixation has not been done properly. Their basic pay was fixed at the initial pay of the new post, while they were drawing more basic pay in the earlier post. It is very much clear from the averments made in Part-6 of the claim petition. Besides, no evidence on this point has been led by the 2nd Party-Union or the disputant workmen. Hence it cannot be said or held that the 1st Party-Management has done any discrimination or disparity in pay fixation of the two workmen on promotion.

5. On the second point of dispute the main grievance of the disputant workmen seems to have been that they were not given promotion in the post of Junior Data Entry Operator from due date as per cadre scheme. They were promoted to the post of Junior Data Entry Operator (trainee)

Grade-E from the post of EDP (Trainee) on 1.6.2004 and after working for nearly six years they were given promotion to the post of Junior Data Entry Operator, Grade-D on 29.3.2010 while the cadre scheme stipulates two years experience as Junior Punch Verifier/Junior Data Entry Operator in Grade-II. It is not clear, nor the 2nd Party-Union or the disputant workmen have clarified as to why their promotion was delayed? No material or substantial evidence could come before the court due to non-appearance of the 1st Party-Management. Although the Management preferred to refrain itself from the proceedings of the case. But the principles of natural justice demand due consideration by the Management of its action in not promoting the disputant workmen as per cadre scheme. However in absence of any material to substantiate the case of the disputant workmen, no specific order can be passed in this regard. The 2nd Party-Union or the disputant workmen have not appeared in the witness box to depose the true facts of the case and bring out material before the court to justify the claim. Therefore the 2nd Party-Union or the disputant workmen cannot be given any relief.

6. The reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 54.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एम सी एल के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या-(28/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-22012/168/1996-आईआर(सी-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 23rd December, 2013

S.O. 54.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 28/2001 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Mahanadi Coalfields Limited, and their workmen, received by the Central Government on 23/12/2013.

[No. L-22012/168/1996-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESHWAR

PRESENT: SHRI J. SRIVASTAVA, Presiding Officer

C.G.I.T.-cum-Labour Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 28/2001

Date of Passing Award-30th April, 2013

BETWEEN

The Management of the General Manager,
Ib Valley Area, Mahanadi Coalfields Ltd.,
Po. Brajarajnagar, Dist. Jharsuguda.

... 1st Party-Management.

And

Their workmen represented through the
Joint Secretary, Brajarajnagar Coal Mines
Workers Union, At./Po. Lamtibahal,
Via. Brajarajnagar, Distt. Jharsuguda.

... 2nd Party-Union.

APPEARANCES:

M/s. G.K. Satpathy, ... For the 1st Party-
Advocate. \ Management.

M/s. D. Mahanta, ... For the 2nd Party-
Advocate. Union.

AWARD

The Government of India in the Ministry of labour vide its Letter No. L-22012/168/96-IR(C-II) dated 5.6.1997 has referred an industrial dispute existing between the employers in relation to the management of Ib Valley Area, MCL and their workman in exercise of the powers conferred by clause (d) of sub-section (1) of sub-section 2 (A) of Section 10 of the Industrial Disputes Act in respect of the following matter.

“Whether the action of the Management of Ib Valley Area of Mahanadi Coalfields Ltd. in terminating the services of S/Sh. Gokul Satpathy, Safet Kansarali, Jay Gopal Podha, Raju Kisan, Sundar Pradhan and Prafulla Kumar Besan is legal and justified? If not, to what relief are the workmen entitled and from which date?”

2. The 2nd Party-Union filed statement of claim and stated that the disputant workmen named above were engaged by the Management as labourers in Regional Stores, Belpahar during July, 1993 and some of them were also engaged for some time as peons, but the exact nature of their duties was supervising the loading the unloading operation, checking of packets and shelving them in the stores etc. All the above workmen continued their work/duty up-to 30.10.1995 without any break. But suddenly they were refused work from 31.10.1995 without any reason. This act of the Management is illegal, arbitrary and amounts to unfair labour practice. The Management had direct supervision and control over these workmen.

They were being paid weekly wages directly by the Management. The payment vouchers were made by the MCL, Ib Valley Area in the name of one workman and the amounts sanctioned was distributed equally among all the workmen. Therefore there was master and servant relationship between the Management and these workmen. These workmen were not engaged by the contractor in the Regional Stores. The sudden refusal of work of these workmen by the Management amounts to retrenchment which is in violation of section 25-F of the Industrial Disputes Act. Before refusal of work to these workmen the Management has neither given one months' notice in writing indicating the reasons for retrenchment nor has paid compensation as required. All the six workmen had rendered nearly two years four months service which shows that there is need for regular post and the Management should have taken immediate steps to regularize them. The Union represented to the General Manager, MCL, Ib Valley area to regularize these six workmen *vide* letter dated 31.10.1995, but their claim was refused. Then the grievance of the workmen was raised by the Union Before the Asstt. Labour Commissioner (Central), Rourkela who inspected the area and found that the six workmen were engaged against the job which is permanent and perennial in nature. But the Management instead of regularizing them, has refused work to them. Hence it has been prayed that the Management be directed to take them back and regularize them, in their jobs and pay them differential wages of Category-I from the date of their engagement.

3. The 1st Party-Management in its written statement has stated that the disputant workmen were contract workers being paid on the basis of the approved rate by the competent authority for each item of work. Their wages of each day was collected periodically by one of them on behalf of all the workmen depending upon the quantum of work done by them collectively. The payment so received was distributed by themselves as per their respective contribution to the work. There was no privity of contract between the 1st Party-Management and the disputant workmen. They were never assigned any duty of supervising the loading and unloading operation or checking of packets as has been alleged. It is also false to allege that some of them were engaged as peons and they were continuously engaged without any break up-to 30.10.1995. The Management had engaged these workmen on contract basis as the nature of job involved was of casual nature. Since there was no need of labourers and peons after 31.10.1995 the allegations regarding approach of these workmen to the Depot Officer and their engagement in the Regional Stores are false. The job of stacking, loading and unloading and checking of packets etc. relates to the valuable articles of the 1st Party-Management. Therefore the same was entrusted to private agencies like the disputant workmen due to exigencies. As record of the same had to be maintained for reference at any time later in case of any shortage, breakage etc. Some

of the general mazdoors of the company were also deputed along with these six workmen whose names were recorded in such documents alleged to be the attendance register. Such endorsements by putting signature were also necessary to certify the quantum of work done by the workers against which payment can be passed by the concerned department. Therefore these documents cannot be taken to show that the workers so engaged were under direct supervision and control of the Management. The payment vouchers filed by the 2nd Party-Union do not disclose the relationship of master and servant between the workers and the Management. The job performed by these workmen cannot be treated as the job of perennial nature as the consignments are not expected everyday from outside. These workmen were engaged purely on rate contract basis to do the casual job on exigencies as and when necessary. Therefore their claim for regularization is unfounded and the reference may be answered in favour of the Management.

4. The 2nd Party-Union in its rejoinder has stated that the disputant workmen are neither casual nor contract labourers. The Management has not alleged the engagement of any contractor. The Management has been diverting the regular employees for getting the work done earlier performed by these workmen. Therefore the work is regular and perennial in nature and the termination of the disputant workmen was unwarranted and illegal.

5. On the pleadings of the parties following issues were framed.

ISSUES

1. Whether the action of the management in terminating the services of Sri Gokul Satpathy, Safet Kansarali, Jay Gopal Podha, Raju Kisan, Sundar Pradhan & Prafulla Kumar Besan is legal and justified?
2. If not, to what relief are the workmen entitled & from which date?

6. The 1st Party-Management has adduced the evidence of two witnesses namely Shri Santosh Kumar Mohanty as M.W.-1 and Shri Hrudananda Majhi as M.W.-2 and relied on four documents marked as Ext.-A to Ext.-D.

7. The 2nd Party-Union has examined two witnesses namely Shri Arun Chandra Hota as W.W.-1 and Shri Prafulla Kumar Besan as W.W.-2 and relied upon three documents marked as Ext.-1, 2 and 2/1.

FINDINGS

ISSUE NO.1

8. As per allegation of the workmen they were engaged by the 1st Party-Management as labourers in the Regional Store, Belpahar and worked there from July, 1993 to October, 1995 without any break, whereas the stand of

the 1st Party-Management is that the disputant workmen were contract workers being paid on the basis of the approved rate for each item of work. Their wages for each day was collected periodically by one of them on behalf of all the workmen which depended on the quantum of work done by them collectively and distributed by themselves as per their respective contributions to the work.

9. From the evidence adduced by the parties the stand taken by the Management proves to be true and substantiated by the statements given on oath by the witnesses of both the sides. There is no dispute that the workmen worked in the Regional Stores, Belpahar from July, 1993 to October, 1995 as casual labourers for loading and unloading operation, checking of packets, and shelving them in stores. W.W.-1 Shri Arun Chandra Hota could not tell as to who engaged the 2nd Party-workmen and whether they were working on rate contract basis? W.W.-2 Shri Prafulla Kumar Besan has stated in his evidence that a khata was supplied to each labourer in which the officer was daily recording as to what work each of the labourers had done and after verifying each khata payment was being made. Ext.-1 is the attendance register with allotment of work and Ext.-2 series is the payment/adjustment vouchers. The money paid by the cashier was being distributed amongst the six workers and two other outsider labourers. The officer was giving instructions daily to each of the labourers in their khata as to the work to be done by each of them and that apart they were not giving their attendance any-where. He has further stated that on receiving money from the office these labourers were deciding among themselves as to who will get how-much money depending upon the work done by each of them. All these assertions support the case of the 1st Party-Management. M.W.-1 Santosh Kumar Mohanty has virtually said the same thing while stating that the workmen were working on the basis of rate contract. According to him they were working collectively and one of them was receiving the payment and Distributing it amongst the labourers. Ext.-1 is not the attendance register, it is a note prepared by him showing the persons worked on a particular date being supervised by him. This register was maintained to prepare bills for making payment. The names of the disputant workmen do not find place in Ext.-A, B & C which are the attendance register. Ext.-2 was prepared after receipt of the approval of the Dy. C.M.M. on the bills submitted by him. This witness has earlier stated that the services of the outside labourers are taken when the work load becomes more. The workmen concerned in this case were engaged when there was need of work. M.W.-2, Shri Hrudananda Majhi has also stated in his evidence that "at the time of need basis we used to engage outsiders on rate contract basis". He further stated that "we never used to maintain the attendance of casual labourers". These casual labourers according to him were not working everyday. They worked on the dates when the materials were sent through trucks.

10. From the perusal of Ext.-1 and 2 filed on behalf of the 2nd Party-workmen it cannot be said that these two documents prove their regular engagement by the 1st Party-Management. Ext.-1 cannot be named as attendance register. It only shows the dates and names of the workmen who worked on those particular dates and did particular work. Copies of the payment vouchers also do not show their continuous employment. This goes to reflect that the 2nd Party-workmen had not worked continuously for 240 days during a period of 12 calendar months preceding the date of their disengagement. The work performed by these workmen is permanent or perennial in nature is not of any importance as they were engaged on contract basis. Payment of their work was to be made on the quantum of work they had performed. Therefore they had not acquired any right to be regularized or to continue in service when there is no sufficient work for them with the Management.

11. Under these circumstances the action of the Management in terminating the services of S/Shri Gokul Satpathy, Safet Kansarali, Jay Gopal Podha, Raju Kisan, Sunder Pradhan and Prafulla Kumar Besan is perfectly legal and justified and no right to get any relief accrue to them. This issue is decided against the 2nd Party-workmen and in favour of the 1st Party-Management.

ISSUE No. 2

12. From what has been stated in Issue No. 1 above the workmen are not entitled to any relief whatsoever.

13. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 55.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी आई पी ई एण्ड टी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 17/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/249/2005-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 23rd December, 2013

S.O. 55.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Central Institute of Plastics Engg. & Technology, and their workmen, received by the Central Government on 23/12/2013.

[No. L-42012/249/2005 - IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR****PRESENT:** SHRI J. SRIVASTAVA, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar**INDUSTRIAL DISPUTE CASE NO. 17/2006****Date of Passing Award-8th August, 2013****BETWEEN:**1. The Director General, Central Institute of
Plastics Engg. & Technology, Corporate Office,
Guindy, Tamilnadu-600 0322. The Duputy Director & Head, Central
Institute of Plastics Engg. & Technology,
B/25, CHI Complex, Bhubaneswar
(Orissa) — 751 024

..... 1st Party-Managements

(And)

Shri Sridhar Naik,
S/o. Late Bholi Naik, At./PO. Patia,
Ps. Chandrasekharapur, Bhubaneswar
(Orissa)-751 031

... 2nd Party-Workman.

APPEARANCES:Shri K.S. Sodhi, ... For the 1st Party-
Manager (PAF). Managements.Shri Sridhar Naik. ... For Himself the 2nd
Party Workman.**AWARD**

The Government of India in the Ministry of Labour has referred an industrial dispute *vide* its letter No. L-42012/249/2005—IR (CM-II) dated 17.8.2006 existing between the employers in relation to the management of Central Institute of Plastics Engg. & Technology and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 in respect of the following matter:—

Whether the action of the management of Central Institute of Plastics Engineering & Technology in terminating the services of Sri Sridhar Nayak *w.e.f.* 1.7.2003 is legal and justified? If not, to what relief is the workman entitled?"

2. The 2nd Party-workman in his statement of claim has averred that he was engaged as a casual worker under the 1st Party-Management No. 1 and was assigned duties in the boys hostel. Later he was engaged in Library and Training Department. While working as such his services

were approved by the then Project Head with effect from 1.3.1992. He had been discharging his duties very sincerely, efficiently and continuously having no adverse remarks against him. His initial monthly pay was raised in the year 1997 from Rs. 500 to Rs. 2025 and then to Rs. 3050 with effect from 16.8.2001. His name was cited at Sl. No. 5 in the list showing details of casual/temporary employees. He rendered continuous service from 1.3.1992 to 30.6.2003 without any break. From 1.7.2003 Shri Ajit Kumar Pattnaik, Assistant of the 1st Party-Management No. 1 refused employment to him verbally under the orders of the Chief Manager, (Project) Dr. S.K. Nayak. His several requests for giving employment were turned down and the security guards of the Management did not allow him to enter inside the campus. The 1st Party-Management has refused employment to him without any reason and without compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947. The 1st Party-Management has engaged Mr. Manoj Kumar Pattnaik as a contractor without obtaining any license under the Contract labour (R & A) Act, 1970, who in turn, has deployed personnel for discharging the duties of the 2nd Party-workman. The 1st Party-Management forced him to work under the contractor after submission of resignation, but the 2nd Party-workman refused to work under the contractor. He and his four senior co-workers were drawing salary directly from the 1st Party-Management by signing the vouchers. The 1st Party-Management has issued four cheques of Syndicate Bank, Bhubaneswar in the name of the 2nd Party-workman towards payment of arrear wages. Hence the 2nd Party-workman be reinstated in service with full back wages.

3. The 1st Party-Management has filed its written statement and alleged that the Central Institute of Plastics Engineering and Technology is a society registered under the Societies Registration Act, 1860 for training highly skilled personel in Pastics Processing. Plastics testing design and also to train tool room, I.T.I. etc. It is essentially and educational institution. It is not engaged in any commercial activities. As such it is not an industry under the Industrial Disputes Act, 1947 and accordingly his Court has no jurisdiction to entertain the case. The 2nd Party-workman was engaged from November, 1994 to July, 1995 through House Keeping/Hotel Kitchen Contractor Shri Bata Krishna Sahoo, from August, 1995 to September, 1996 through the hostel kitchen contractor Shri B.C. Das and from October, 1996 to November, 1997 through the hostel kitchen contractor Shri Bata krishna Sahu. From July, 1997 onwards the 2nd Party-workman was engaged by the hostel mess committee for hostel. The said committee was independently run by the hostel students. The 2nd Party-workman was receiving wages from the hostel mess committee through the institute. Earlier to it he was also engaged from 1.3.1992 through the contractor Shri Sridhar Naik for House Keeping works. The 2nd Party-workman worked till the month of July, 2003 and received the payment, but he did not turn up after July, 2003. In the month of June,

2004 he was engaged for gardening work on his personnel request and received payment till August, 2004 for the work done by him. He left the job on his own choice. He has never worked continuously for 240 days in a year. He was never appointed by the CIPET against any sanctioned permanent or regular post or vacancy. For the increasing house keeping job the 1st Party-Management has engaged M/s. Manoj Enterprises to carry out the day to day house keeping works in the hotel and office premises. the 2nd Party-workman was engaged by the respective contractors and mess committee as per their requirement while four seniors named by the 2nd Party-workman have been working in CIPET as casual/contract employees. The 2nd Party-workman was neither appointed against any regular sanctioned/vacant post by CIPET nor he has any vested right for his regularization in CIPET. Hence he is not entitled to the reinstated. The question of victimization does not arise since the 2nd Party-workman was neither appointed nor disengaged by the CIPET. The provisions of Section 25 of the Industrial Disputes Act are not attracted in this case. The 2nd Party-workman has also filed W.P. No. 4600/2003 for regularization of his service in Hon'ble High Court of Orissa which is still pending. Hence he cannot be allowed to take shelter of two forums simultaneously for the same relief.

4. On the pleadings of the parties, following issues were framed:—

ISSUES

1. Whether the reference is maintainable?
2. Whether the workman was engaged by the Management of Central Institute of Plastics Engineering & Technology?
3. Whether the Management had ever refused employment to the workman with effect from 1.7.2003 and if so, whether the action of the management is justified and legal?
4. If not to what relief the workman is entitled?
5. The 2nd Party-workman Shri Sridhar Nayak son of Late Bholi Naik has examined himself as W.W.-1 in evidence and relied upon fifteen documents marked as Ext.-1 to 15. On the other hand the 1st Party-Management has examined Shri Sridhar Naik son of Akura Naik as M.W.-1 and relied on several documents marked as Ext.-A to S.

FINDINGS

ISSUE NO. 1

6. Although the 1st Party-Management has stated that its establishment being an educational institution not engaged in any commercial activities does not come under the definition of "Industry" and therefore the reference is not maintainable in this Tribunal/Court, yet it has not seriously contested the issue and seems to have given up the question of maintainability and jurisdiction of the court.

It has filed Ext.-F, photostat copy of judgement of the Hon'ble High Court of Madras given in Writ Petition No. 863/1984 wherein it was held that the Management of Central Institute of Plastic Engineering and Tools, Madras is exempt under section 32(v) (b) and (c) of the Payment of Bonus Act. This judgement is no helpful in the present context as the question involved herein is the applicability of the Industrial Disputes Act, 1947. The 1st Party-Management seems to have submitted to the jurisdiction of the Central Government Industrial Tribunal-cum-Labour Court for adjudication of industrial disputes as it has relied on the judgement of the Hon'ble High Court of Punjab and Haryana at Chandigarh given in Civil Writ Petition No. 7344 of 2007 and judgement of I.D. Case No. 97/1995 given by the Labour Court, Bhubaneswar relating to the 1st Party-Management. The photostat copies of these two judgements have been filed along with the written note of argument by the 1st Party-Management. In these two cases applicability of the Industrial Disputes, Act has not been challenged by the 1st Party-Management. In my view also this Tribunal-cum-Labour Court has jurisdiction to adjudicate upon the industrial dispute between 1st Party-Management and its employees being an industrial dispute as the 1st Party-Management is a State-run establishment and the present dispute relates to public employment. This issue is accordingly decided against the 1st Party-Management and it is held that the reference is maintainable in this Tribunal/Labour Court.

ISSUE NO. 2

7. According to the 2nd Party-workman he was engaged by the 1st Party-Management No. 1 with effect from 1.3.1992 and he worked till 30.6.2003 without any break. On the contrary the 1st Party-Management has alleged that the 2nd Party-workman had worked from 1.3.1992 till July, 2003 under different contractors for different kind of work. He was receiving wages from the contractors through the Institute. But the 1st Party-Management has failed to prove by any cogent and reliable evidence that the 2nd party-workman was engaged by the contractors for different spell of time. It has examined one of the contractors named Shri Sridhar Naik as M.W.-1, who has stated in his evidence that the 2nd party-workman has worked under him for one year and disbursed his wages brought from the Management. He got appointment in regular post under the 1st Party-Management in the year 1994. Thereafter he left the contract and the 2nd Party-workman was doing various miscellaneous works under the Management. He has further stated that the 2nd Party-workman was working under the two contractors, namely Shri Bata Krishna Sahu and Shri B.C. Das and getting his wages as usual from the office of the Management and the hostel. In his cross-examination he has candidly admitted that "I cannot say whether the workman was working with the contractor, but I can say the workman was working directly with the Management and receiving wages through voucher". The

1st Party-Management has filed four numbers of photostat copies of contract agreement executed between the contractor and the 1st Party-Management, but they do not indicate that the 2nd Party-workman was engaged by these contractors.

8. The 2nd Party-workman Shri Sridhar Nayak son of late Shri Bholi Nayak has stated in his evidence that he was engaged by the Management initially in the year 1992 as a sweeper and he continued to work till June, 2003 in different fields of work. He has also stated in his cross examination that he was engaged by Shri Sridhar Nayak, Contractor during the absence of Shri Bai Nayak and for that period Shri Sridhar Nayak, Contractor used to get his remuneration from the Management and give it to him. He has also admitted that he was sent to the hostel to assist Shri Batakrishna Sahoo who was working as a cook in the hostel in the year 1994. 50% of his wages and 50% of wages of other workers was borne by the hostel committee and the rest 50% was borne by the Management. From his statement read as a whole, it cannot be concluded that he was engaged by the contractor and shifted his employment from one contractor to another with the change of contractor. He has also filed several documents to prove that he was working as a casual employee under the 1st Party-Management. Ext.-1 to 3 show that the 1st Party-Management was recommended his name along with four other casual workers for regularization to its Head Office. He was also given bonus along with other employees in the year 1996-97 and 1998-99 as is reflected from Ext.-4 and 9. Details of casual staff are given in Ext.-6 and 13. Although this list has been denied by the 1st Party-Management, but no one from the side of the 1st Party-management has come to state this thing on oath. The 2nd Party-workman has also filed copies of vouchers. Ext.-5, 8 and 14 to show the payment of wages and bonus by the Management. The 1st Party-Management has also filed photostat copies of several vouchers and one money receipt towards payment of wages and other dues to the 2nd Party-workman. All these documents go to prove that the 2nd Party-workman was engaged by the Management of CIPET itself and not by the contractors. This issue is accordingly decided in the affirmative and in favour of the 2nd Party-workman.

ISSUE NO.3

9. The stand of the 2nd Party-workman is that he was refused employment on 1.7.2003 by Shri Ajit Kumar Pattnaik, Assistant under the direction of the 1st Party-Management No. 1, but this stand of the 2nd Party-workman proves to be false as he himself has admitted in his cross examination that 1.7.2003 was a holiday on account of Rath Yatra. He had worked in the month of July, 2003 and was also paid his wages amounting to Rs. 3050/-. He also granted receipt of that payment which has been filed as Ext.-A by the 1st Party-Management. Further he has admitted that "it is a fact that I worked in the month of June, July and August,

2004 in the office of the Management and I have also received salary for those months". Refused employment to the 2nd Party-workman no question of legality or illegality of the action of the Management arises in this regard.

ISSUE NO.4

10. As the 2nd Party-workman has failed to prove the refusal of employment by the 1st Party-Management and also to prove 240 days continuous service during a period of 12 calendar months preceding the date of his alleged disengagement, he does not appear to be entitled to any relief.

11. The reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 56.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, रतलाम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/87/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/49/2004-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 56.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/87/2005) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL, Ratlam and their workman, which was received by the Central Government on 23/12/2013.

[No. L-40012/49/2004-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/87/2005

SHRI R.B.PATLE, Presiding Officer

Divisional Secretary,
National Union of Telecom Employees Line Staff
& Group—D,
R/o Mundala Nayata (Palda),
Indore

....Workman/Union

Versus

The Telecom District Manager,
BSNL, O.o the TDM,
Ratlam (MP)

....Management

AWARD

(Passed on this 13th day of November, 2013)

1. As per letter dated 26-8-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/49/2004-IR(DU). The dispute under reference relates to:

"Whether the action of the management of TDM, Ratlam in terminating the services of Shri Ganpatlal S/o Shri Mohanlal *w.e.f.* 31-1-90 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed Statement of Claim at Page 5/1 to 5/4. The case of Ist Party workman is that he was working on establishment of IInd Party from 1984. He was doing work of laying telephone lines, his services are terminated from 31-1-90 without notice. He was not paid retrenchment compensation. That he had worked for more than 240 days preceding termination of his services. That his services are terminated in violation of Section 25-F of I.D. Act principles of last come first go was not followed. IInd Party violated Section 25-G of I.D. Act he had filed Original Application No. 499/95 before CAT, Jabalpur. This petition was disposed in liberty to approach appropriate forum as per order dated 30-7-99. Workman reiterate that his services are illegally terminated. He prays for reinstatement with consequential benefits.

3. IInd Party filed Written Statement at Page 6/1 to 6/3. Preliminary objection is raised that dispute referred after 14 years is barred by limitation. Workman is not entitled to any relief. Workman was engaged as daily wagger on casual basis. He is not entitled to protection of I.D. Act. The dispute is not tenable. IInd Party further submits that workman was engaged purely as casual labour. That the claim of workman that he completed 240 days working is not genuine. Workman was not regularly working for 240 days. That eventhough SDO Mandisor has been given one month payment Rs. 1005 & Rs. 1005/-towards compensation. The termination of his service is not illegal. The claim of workman is highly belated and deserves to be rejected.

4. Workman filed rejoinder reiterating his contentions in Statement of Claim. That his services are terminated in violation of Section 25-F of I.D. Act. He had worked for more than 240 days during each of the year in 1984 to 1990.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the

reasons as below:—

(i) Whether the action of the management of TDM, Ratlam in terminating the services of Shri Ganpatlal S/o Shri Mohanlal *w.e.f.* 31-1-90 is legal? In Negative

(ii) If not, what relief the workman is entitled to?" As per final order.

REASONS

6. Workman is challenging termination of his services for violation of Section 25-F, G of I.D. Act he claims that he worked for more than 240 days during each year from 1984 to 1990. IInd Party denied above contentions of the workman. Workman filed affidavit of his evidence covering all above contentions. In his cross-examination, workman says appointment letter was not given to him. His name was sponsored through Employment Exchange. He was working on daily wages. His wages were paid at the end of month. He was working in Ratlam Division. He was unable to tell for how many days, he worked in a particular year. He was doing work of laying cables. After the completion of work, he was discontinued. Again he was taken for the work. He has signed his Statement of Claim after reading the contents. He denied receipt of money order of Rs. 2000 from IInd Party.

7. Management filed affidavit of evidence of witness Prem Kumar Jain. His affidavit of evidence is by way of denial that workman was engaged as casual labour. After completion of work, his services were discontinued. That workman was paid amount of Rs. 2010 by Money Order. The amount was not accepted by him. In his cross-examination, management witness says when services of workman were terminated, amount of Rs. 2010 was sent by Money order towards compensation. The acknowledgement is produced Exhibit M-1 and postal receipt M-2 the management's witness in his cross-examination says that he was not posted while the workman was working. That he has given evidence as per the available documents. The working days shown in Exhibit M-1 are correct. He denies that amount was not sent by Money order.

Section 25-F of I.D Act provides—

“Conditions precedent to retrenchment of workmen—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice;

- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months and
- (c) Notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

As per Section 25-F(a), notice is not given to the workman indicating reasons for retrenchment. Therefore the termination of service of workman cannot be said legal. Provisions of Section 25-F are not complied therefore the termination of services of workman cannot be said legal. Provisions of Section 25-F are not complied therefore the evidence of management's witness that retrenchment compensation amount was sent by money order itself shows that the workman has completed 240 days service and he was entitled to protection under Section 25-F of I.D. Act. Therefore I record my finding on Point No. 1 in Negative.

8. Point No. 2—In view of my finding in Point No. 1, termination of service of workman is in violation of Section 25-F of I.D. Act, question arises to what relief the workman is entitled. That the workman was working as casual labour on daily wages, reinstatement of workman would not be appropriate. On the point, learned counsel for IInd Party relies on ratio held in

"Case of Assistant Engineer, Rajasthan Development Corporation and another *versus* Giram Singh reported in 2013(2) Supreme Court Cases (L&S) 369. Their Lordship held the service of a daily wagger who worked for short period of 240 days only terminated by appellant employer in 1991 in contravention of Section 25-F, the Lordship allowed compensation of Rs. 50,000/- to meet the ends of justice."

Ratio in above cited case squarely applies to present case therefore the workman be paid compensation Rs. 50,000. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) Action of the management of TDM, Ratlam in terminating the services of Shri Ganpatlal S/o Shri Mohanlal *w.e.f.* 31-1-90 is not proper.
- (2) IInd Party management is directed to pay compensation Rs. 50,000/- to workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 57.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/51/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

रखसं० एल-40012/406/2000-आई आर(डीयू),
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 57.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/51/2001) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecommunication and their workman, which was received by the Central Government on 23/12/2013.

[No. L-40012/406/2000-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/51/2001

SHRI R.B. PATLE, Presiding Officer

Shri Kailash C. Prajapati,
S/o Bhagwandas Prajapati,
R/o H/4, Govt. Milk Dairy Colony,
Guna

....Workman

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
MP Circle,
Bhopal
District Engineer (Phones),
Guna

....Management

AWARD

Passed on this 22nd day of November 2013.

1. As per letter dated 19-2-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/406/2000/IR(DU). The dispute under reference relates to:

"Whether the action of the management of District Engineer (Phones), Guna in terminating Shri Kailash Chandra Prajapati S/o Bhagwandas Prajapati *w.e.f.* 1-3-97 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed Statement of claim at Page 4/4 to 4/4. The case of Ist Party workman is that he was appointed on the post of phone mechanic since February 1991. He was asked to do various other works allotted to him. He was continuously working till 20.4.1997. He performed his service satisfactorily without adverse communication. His services were terminated from 1.3.1997 without issuing written order of termination. That termination of his services is illegal and arbitrary. His services were terminated without assigning reasons. Workman claims that he was continuously working for more than 6 years. He has completed 240 days service during each of the year. His services are terminated without assigning reasons. He was denied regularization in service as he claimed equal wages for equal work. That termination of his services is in violation of Section 25-F, G, H of I.D. Act. On such grounds, the workman submits that the list of daily wage employees working at the time of termination of his service was not displayed. As such his services are terminated in violation of Section 25-F, G, H of I.D. Act & Rules 17 of ID Central Rules 1957. On such ground, he prays for reinstatement with consequential benefits.

3. IInd Party filed Written Statement at Page 8/1 to 8/4. All material contentions of workman are denied. It is denied that workman was appointed on post of telephone mechanic. It is denied that he was continuously working for 6 years. It is denied that he worked for more than 240 days during every calendar year. Violation of Section 25-F, H is denied. According to IInd Party, employment of casual employees was stopped since 1986. Workman was engaged as per norm. The employment came to end on end of the day. Workman is not covered under Section 25-F of I.D. Act. he has not completed 240 days continuous service. Therefore he is not entitled to protection of I.D. Act. on such ground, IInd Party prayed for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--------------------|
| (i) Whether the action of the management of District Engineer (Phones), Guna in terminating Shri Kailash Chandra Prajapati S/o Bhagwandas Prajapati <i>w.e.f.</i> 1-3-97 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to? | As per final order |

REASONS

5. Workman is challenging termination of his service in violation of Section 25-F of I.D. Act. He claims to be working as Telephone mechanic from February 1991 and continuously working till February 1997. That his services were terminated without order in writing. List of casual employees in IInd Party was not displayed. Rule 77 was violated. IInd Party denied above contentions. Workman filed affidavit of his evidence stating that he was working as telephone mechanic from February 91 till February 1997. He has completed 240 days continuous service. His services were terminated without written order from 1.3.97. In his cross-examination, he has denied suggestion of IInd Party that he had not worked for 240 days during any of the calendar year. In his further cross-examination, workman says that he has passed 12th standard in 1987. He denied suggestion that he was working under contract. That written letter was given to him. It is denied that he was working any project. Said work was of the department. The working of Ist Party workman with IInd Party is admitted in Para-2, 4 & 5 of the written statement. It is contention of IInd Party that workman had not completed 240 days.

6. The management filed affidavit of evidence of witness Shri Basant Kumar Pateria covering most of its contentions. The witness of the management in his cross-examination says during 1992 to 1997, he was posted at Sagar. He does not know workman. He has no personal knowledge about workman. That he had not seen record that workman was engaged on daily wages. That Para-4, 5 of his affidavit are relating to the policy of the department. In Para-10 of his evidence, the management witness says from 1992 to 1997 workman was engaged as casual labour as per exigency. In Para-11 of his cross-examination, he further says that casual labours are paid as per muster roll. In muster roll, information is recorded how much wages are paid and the working days. Such muster rolls are not available. The witnesses of the management has no personal knowledge about working of workman. The documents of muster rolls maintained working, payment made to the casual labours are not available. Though the witness has undertaken to produce such record in para-15 of his cross-examination, no such document is produced. If evidence of workman is listed on probability, workman himself is telling about his working days. In para-2 & 5 of the Written Statement, engagement of workman is admitted by IInd Party rather as casual employee. In para-10 of his evidence management witness also admits that workman was engaged as casual employee. That the payments are made to casual employees as per muster roll. Management witness has no personal knowledge about working of the workman. His affidavit of evidence is based on documents but the documents are not produced, muster rolls are not traceable. It is not case of IInd Party that during 1991 to 1997, workman was working at any other place. Therefore considering the probabilities, the evidence of workman

deserves to be believed that he had completed 240 days continuous service during each of the calendar year. The services of workman are not terminated issuing order in writing. Section 25-F is not complied, list of casual employee is not displayed by IInd Party while terminating services of the workman as Rule 77 of I.D. Act is violated. For above reasons, I record my finding in Point No.1 in Negative.

7. In view of my finding in Point No.1, question arises whether the workman is entitled for reinstatement with back wages. The workman in his cross-examination says his name was not sponsored through Employment Exchange. He was not given appointment letter. It shows that the workman was engaged as casual employee. Reliance is placed by counsel for IInd Party Shri R.S. Khare in

"Case of Assistant Engineer, Rajasthan Development Corporation *versus* Giram Singh reported in 2013(5) Supreme Court Cases 136. Their Lordship of the Apex court dealing with Section 25-F, 11-A of I.D. Act considering wrongful termination of service, their Lordship held services of a daily wager respondent who worked for short period of 240 days only, terminated by appellant employer in 1991 in contravention of Section 25-F of I.D. Act, compensation Rs. 50,000 would meet ends of justice."

In present case, facts of present case are little different. Workman was working from February 1991 to February 1997 with IInd Party *i.e.* for almost 6 years. In case before their Lordship, workman was working for short period from 1.3.97, 31.10.97. It is clear from reading para-3 of the judgment. Therefore compensation Rs. 50,000 awarded by their Lordship in above cited case cannot be followed in present case. Considering the length of service in my considered view, compensation Rs. 1 Lac would be appropriate. Accordingly I record my finding on Point No. 2.

8. In the result, award is passed as under:—

- (1) Action of the management of District Engineer (Phones), Guna in terminating Shri Kailash Chandra Prajapati S/o Bhagwandas Prajapati *w.e.f.* 1.3.97 is not legal and proper.
- (2) IInd Party management is directed to pay compensation Rs. 1 Lac to Ist Party workman.

Compensation Amount Rs. 1 Lac be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 58.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 37/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/82/2010-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 58.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2010) of the Central Government Industrial Tribunal/Labour Court, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Power Grid Corporation of India and their workman, which was received by the Central Government on 23/12/13.

[No. L-42012/82/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, DELHI

I.D. NO. 37/10

DATED 25.7.2013

The General Secretary,
Rashtriya General Mazdoor Union,
B-239, Karampura,
New Delhi-110015

Versus

1. M/s Power Grid Corporation of India Pvt. Ltd.,
Qutub Institutional Area, Katwaria Sarai,
New Delhi-110016

2. The CEO,
M/s Everest Enterprises,
Q-60, Sector-12,
Noida (U.P.)-2012301

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-42012/82/2012-IR (CM-II) dated 27/10/2010 has referred the following Industrial Disputes to this Tribunal for adjudication:—

"Whether the action of the management of M/s Everest Enterprises, Noida, a Contractor of the management of Power Grid Corporation, Ltd., New Delhi in Terminating the services of Shri Sanjay S/o Shri Vijender Singh and Shri Satpal S/o Shri Bahadur Singh *w.e.f.* 21/2/2008 and 25/8/2008 respectively without Retirement compensation is legal and justified? If not, what relief the workman are entitled to and from which date?"

2. The Statement of Claim has not been filed by workman up till now.

3. He remained absent inspite of personal service of notice through registered post Under these circumstance, there is no way to pass a No dispute award in this case.

Accordingly a No Dispute Award is passed in this case and reference I.D. No. 37/2010 Sent by the Central Government *vide* No. L-42012/87-IR (CM)-II dated 27/10/2010 stands disposed off accordingly, parties will bear their own costs.

Dated : 25-7-2013

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

कांआ 59.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परियोजना, निदेशक, भारतीय परमाणु उर्जा निगम के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 61/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं एल-42012/64/2000-आईआर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 59.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2000) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Project Director, Nuclear Power Corporation of India, Kaiga and their workman, which was received by the Central Government on 23/12/13.

[No. L-42012/64/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, BANGALORE

DATED: 15th April, 2013

PRESENT : SHRI S.N. NAVALGUND, Presiding Officer

C.R. No. 61/2000

I Party

Sh. Hanumantha N Vaddar,
R/o Mavinkatta,
Kundargi Post,
Vellapur- 581 402.

II Party

The Project Director,
Nuclear Power Corporation
of India Limited, Kaiga
Project, Kaiga - 581 400.

APPEARANCES:

I Party : Sh. D Leelakrishnan, Advocate

II Party : Sh. Ramesh Upadhayay, Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section 2A of the Section 10 of the Industrial Disputes, Act, 1947 has referred this dispute *vide* Order No. L-42012/64/2000-ID (DU) dated 31.08.2000 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Nuclear Power Corporation of India Ltd., Kaiga Project, in terminating the services of Sh. Hanumanthappa Nagappa Vaddar, Helper during his probation period without conducting any enquiry and without giving a chance to defend himself is justified? If not, to what relief the said workman is entitled?"

2. On receipt of the reference registering it in CR 61/2000 when notices were issued to both the sides they entered their appearances through their respective advocates and filed the claim statement of the I Party on 21.06.2001. My learned predecessor after affording several opportunities to file the counter statement when same was not availed posted the matter for I party evidence and after affording several opportunities to the I party to lead evidence when the same was not availed by Award dated 30.09.2004, he dismissed the reference for non-prosecution. When the I Party workman aggrieved by the said Award of dismissal when approached the Hon'ble High Court of Karnataka in W P No. 26434/2005 (L-Res) the Hon'ble High Court by order dated 16.08.2007 set aside the said Award with a direction to provide one more opportunity of hearing to both the sides and remitted back the matter. After the order of the Hon'ble High Court they entered their appearances through same advocates whom had engaged earlier and counsel for II Party filed the counter statement on 04.08.2010.

3. The I Party in his claim statement asserts that he who belongs to Scheduled Caste and was being sponsored by the Employment Exchange to the Post of Helper A in the II Party was selected by the duly constituted selection committee and appointed as Helper A in the scale of pay 750-12-870-FB-14-970 through appointment order dated 20.08.1992 and pursuant to that Order he reported to duty on 07.10.1992 and successfully under whet the period of probation for one year. It is further asserted when things stood thus the II Party management passed an order dated 16.11.1993 terminating his services and that at no point of time such termination order was communicated to him and that his probation was not at all extended as such the order of termination passed against him is grossly unjust,

arbitrary, malafide and cannot be sustained. He further asserted that on account of severe chest pain he admitted to the Government Hospital, Sirsi on 24.06.1993 and undergone treatment till 31.08.1993 and that he who was provided with Residential Quarters PF- 4 situated at Kaiga Site was unlawfully removed from Services though the II Party management was aware that he was suffering from Heart ailment and that he was not permitted to report to duty after availing the medical treatment and as his several representations to the II Party management seeking its permission to continue him in service went in vain he raised Industrial Dispute before the RLC (C), Mangalore and due to the adamant attitude of the management since conciliation failed the Central Government made this reference for adjudication. He also asserted he having completed 240 days of service in each calendar year the order of termination passed against him being against Section 25(f), 25(g), 25 (n) is tantamount to illegal retrenchment and liable to be set aside. With these assertions he prayed to direct the management to reinstate him into service with full back wages, continuity of service, seniority, promotion etc. *Interalia*, the II Party in its counter statement without disputing that I Party was offered an appointment as Helper A through an order of appointment No. KP/4(14)/92/Rectt/4377 dated 20.08.1992 and pursuant to the same he joined duty on 07.10.1992 forenoon, contended that he who was on probation for a period of one year from the date of appointment remained absent from duty from 07.01.1993 to 09.01.1993, 10.01.1993 to 18.01.1993, 26.05.1993 to 29.05.1993, 30.05.1993 to 10.06.1993, 26.06.1993 to 31.07.1993 and from 10.08.1993 to 16.11.1993 and that the Administration had sent a telegram on 04.09.1993 informing him to rejoin the duties and there after as he did not respond a Registered Notice was sent to him dated 23/24.09.1993 calling upon him to join duty latest by 23.10.1993 failing which appropriate action will be taken and as he did not respond to that also his performance was found not satisfactory he came to be discharged from services w.e.f. 16.11.1993 for unsatisfactory probation period. Thus the II Party has substantiated its action in discharging him from service for unsatisfactory probation period.

4. After completion of the pleading when the matter was posted for evidence of II Party the learned advocate appearing for the II Party while examining Sh. Uma Maheshwar, Sr. Manager (HR) as MW 1 got exhibited the copy of the appointment letter issued to the I party dated 20.08.1992; Original telegram of the I Party dated 23.07.1993 seeking extension of leave; office copy of closure of probation; office copy of extension of probation dated 30.10.1993; Office copy of the Order terminating the I Party Services dated 16.11.1993 as Ex M-1 to Ex M-5. *Interalia*, the I Party while filing his affidavit reiterating the averments of the claim statement examining himself on oath got

exhibited the Photostat copy of the medical certificate pertaining to him issued by the Government Hospital, Sirsi dated 30.07.1993 as Ex W-1.

5. With the above pleading, evidence and documents brought on record when the learned advocates appearing for both the sides were called upon to address arguments both of them filed their written arguments.

6. There being no dispute the I Party was being appointed as Helper A in the II Party on 20.08.1992 with a probation period of one year and he reported to duty on 07.10.1992 the only point for consideration is as the order of discharge is made on 16.11.1993 can it be said that he was continued in service after completion of the probation period and thereby it has to be presumed that his service was confirmed without extension of the probation period as urged by his learned advocate. The I Party has not disputed the contention of the II Party that during the probation period he remained absent from duty on different spells *i.e.* 07.01.1993 to 09.01.1993, 10.01.1993 to 18.01.1993, 26.05.1993 to 29.05.1993, 30.05.1993 to 10.06.1993, 26.06.1993 to 31.07.1993 and from 10.08.1993 to 16.11.1993 and it is also supported by his own telegram dated 23.07.1993 seeking extension of leave upto 31.07.1993 and the probation closure report which are marked as Ex M-2 and Ex M-3 respectively. It is also proved by the II Party producing the copy of Extension of Probation for a period of six months dated 30.10.1993/Ex M-4. Thus, it is since indicated from the evidence that during the probation period itself he developed a habit of remaining absent without applying for leave and even now he could not justify his such frequent absence from duty except producing a Medical Certificate obtained from Medical Officer, Public General Hospital, Sirsi as Ex W-1. This medical certificate is also being interpolated with dates, in the absence of examining the doctor issuing the certificate it cannot be believed that he was hospitalized or under treatment at the said hospital. This certificate indicates being issued on 30.07.1993 certifying that he was ill and unfit for duty and required rest and treatment from 24.06.1993 to 31.08.1993 as he was suffering from Lipoma Chest Wall. He doesn't certify that I Party workman was hospitalized during that period or earlier to it. Even presuming that the date of issue is 30.09.1993 wherein it is certified that he was found fit to resume duties from 31.08.1993, there being no evidence he having approached the II Party with a request to permit him to join the duty either on 31.08.1993 or on its following day. Thus the habitual remaining absent from duty even without applying for leave and not explaining properly for his absence the management taking a decision to discharge him during the extended probation period as provided under the appointment letter itself without holding any enquiry is just and proper. In the result, I pass the following Order:

ORDER

The reference is rejected holding that the action of the management of Nuclear Power Corporation of India Limited, Kaiga Project in terminating the services of Sh. Hanumanthappa Nagappa Vaddar, Helper during his probation period without conducting any enquiry and without giving a chance to defend himself and that he is not entitle for any relief.

(Dictated to UDC, transcribed by him, corrected and signed by me on 15th April, 2013)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

कांआ 60.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17के अनुसरण में केन्द्रीय सरकार संचार जिला प्रबंधक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/7/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं एल-40012/131/2002-आई आर (डी यू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 60.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/7/2003) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom District Manager and their workman, which was received by the Central Government on 23/12/13.

[No. L-40012/131/2002-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/7/2003

SHRI R.B. PATLE, Presiding Officer

Shri Ganga Ram Patel,
S/o Shri Nathu Patel,
Residence at Nag Toria,
Near New Police Station,
Khurai, Sagar (MP)

...Workman

Versus

Telecome District Manager,
Sagar 9 (MP)

...Management

AWARD

(Passed on this 19th day of September, 2013)

1. As per letter dated 6-8/1/2003 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/131/2002-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Telecom District Manager, Sagar (MP) Deptt. of Telecom now converted into Telecom District Manager, Sagar (MP) Bharat Sanchar Nigam Limited in terminating the services of Shri Ganga Ram Patel S/o Shri Nathu Patel w.e.f. 15-3-90 and not regularizing as regular employee is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist Party workman submitted his statement of claim at Page 2/1 to 2/2. The case of Ist Party workman is that he was working as casual labour from July 1980 till March 1990 with IInd Party No. 3 & 4. His service record was satisfactory. There was no complaint against him. As per directions issued by the Hon'ble Apex Court, claim for regularization of casual employees was framed in 1989 inspite of giving benefit of regularization scheme suddenly his services were terminated by oral order. Termination order in writing was not given to him, no notice was received, retrenchment compensation was not paid. On above contentions, Ist party workman submits the termination of his service is illegal. He prays for reinstatement with consequential benefits.

3. IInd Party filed Written Statement at Page 8/1 to 8/3 opposing the relief prayed by workman. Preliminary objection is raised that for development of telecom facilities, ambitious planning was done to increase telecom facilities opening telephonic message in rural areas, laying cables and other related works. To complete the project, casual workers were employed by deptt. at various places in the State. The casual workers were engaged on daily payment basis. They were engaged for regular work. There was no need to keep casual workers after completion of the work.

4. That Ist Party workman was not appointed on any post of the Telecom Deptt. He was working purely on casual basis for specific project work. The work was of casual nature. As per instructions contained in Letter dated 30-8-85 issued in the matter of casual labours on completion of work, casual labours were required to be retrenched. That workman had worked for 180 days in 1985, 13 days in 1986, he do not worked in 1987, he worked for 343 days in 1988, 351 days in 1989 and 24 days in 1990. That the workman is not fulfilling conditions the conditions as per letter dated 25-6-93 for getting temporary status. That as per the Regularisation Scheme of 1989, it is required that

employees should have been engaged prior to 30-3-85 continued as casual workers on 7-11-89. He has completed 240 days in a year. That Ist Party workman was not engaged prior to 30-3-85. The policy was further extended to casual workers till 25-6-93 on condition that the employee engaged between 31-3-85 to 22-6-88. That employee not remained absent for 265 days. It is reiterated that the workman has not completed 240 days in any calendar year during March 1985 to 22-6-88. He did not continued till 25-6-93. There is gap of more than 365 days. Other contentions of workman about violation of Section 25-F, G & H of I.D. Act are denied. IInd Party submits that the action of the management is legal and claim of workman be rejected.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--------------------|
| (i) Whether the action of the management of Telecom District Manager, Sagar (MP) Deptt. of Telecom now converted into Telecom District Manager, Sagar (MP) Bharat Sanchar Nigam Limited in terminating the services of Shri Ganga Ram Patel S/o Shri Nathu Patel w.e.f. 15-3-90 and not regularizing as regular employee is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

6. As per the directions of reference, the legality of termination of services of Ist party workman from 30-3-90 without regularizing his services is referred for adjudication. The contentions of the workman are denied by the management. Workman Ganga Ram filed affidavit of his evidence. He has stated that he was working with IInd Party No. 3 & 4 from July 1980 till March 1990. He has given breakup of his working days as 139 days in 1980, 246 days in 1981, 161 days in 1982, 108 days in 1983, 262 days in 1984, 113 days in 1985, 13 days in 1986, 349 days in 1988, 355 days in 1989 and 66 days in 1990. That his services were terminated by oral order without assigning duties. He was not regularized as per scheme for regularization of casual employees 1989. He was not paid retrenchment compensation. Workman did not remained present for his cross-examination. His evidence was closed on 29-9-09. As the workman had not made available for corss-examination, his evidence cannot be accepted.

7. Management filed affidavit of its witness Shri Gohe. Management's witness has stated that as soon as project was over, services of workman were discontinued. The workman was engaged for laying down telephone cable of particular project. The details of project are not given in the affidavit. That the name of workman was not

sponsored through Employment Exchange as required for appointment. In his cross-examination, management's witness says he was working as AGM, Sagar from 2009, muster register is maintained in the office. He admits that name of muster was included in the muster, he was paid wages for working days in muster register. The Written Statement filed by IInd Party shown that Ist Party workman had worked for 343 days in 1988, 351 days in 1989, 24 days in 1990. It is clear from above that the workman had completed more than 240 days service in 1988 & 89. His services were terminated without notice, no retrenchment compensation as paid to him. He was not given benefit for regularization. The termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

8. Point No. 2- In view of my finding in Point No. 1, termination of workman is illegal, question arises to what relief the workman is entitled? Workman was working as casual employees. He was not selected for regular post following the proper procedure. His name was not sponsored through Employment Exchange. Ist Party workman is out of employment from 1990. He had worked with IInd Party for more than 5 years. Learned counsel for IInd Party Shri M.P. Kapoor submits that the work of link cable is closed. Considering the facts, reasonable compensation may be allowed. In support of his argument, learned counsel relies on ratio held in "Case of Sr. Superintendent Telegraph, Bhopal versus Santosh Kumar Seal and others. Their Lordship of Apex Court dealing with question of reinstatement with back wages should not be granted. In the matter of retrenchment without complying requirements of Section 25-F of I.D. Act. Their Lordship held relief by way of reinstatement with back wages not automatic even if termination of employee is found to be illegal or in contravention of the prescribed procedure and monetary compensation in cases of such nature may be appropriate. Considering facts, workmen were engaged as daily wagers for about 25 years back and they worked hardly for 2-3 days, the relief of reinstatement and back wages to them cannot be said to be justified. The employers are directed to instead pay monetary compensation of Rs. 40,000 to each of the workmen in lieu of relief of reinstatement and back wages."

In present case, workman was terminated in violation of Section 25-F. he had worked for more than 5 years with IInd party. In my considered view, compensation Rs. 1 Lakh would be appropriate to meet the ends of justice. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

(1) Action of the management of Telecom District Manager, Sagar (MP) Deptt. of Telecom now converted into Telecom District Manager, Sagar (MP) Bharat Sanchar Nigam Limited in terminating the services of Shri Ganga Ram Patel S/o Shri Nathu Patel w.e.f. 15-3-90 and not regularizing as regular employee is not legal.

(2) Hind party is directed to pay compensation Rs. 1 Lakh to the workman within 30 days.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 61.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2, मुम्बई के पंचाट (संदर्भ संख्या-2/22-2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/479/2000-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 61.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2-22/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of Mahanagar Telephone Nigam Ltd. Mumbai and their workmen, received by the Central Government on 23/12/2013.

[No. L-40012/479/2000-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT: K.B. Katake, Presiding Officer

REFERENCE NO. CGIT-2/22 OF 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MAHANAGAR TELEPHONE NIGAM LTD.

The General Manager
Mahanagar Telephone Nigam Ltd.
Advani Chambers Canteen
Advani Chambers
Mumbai-400 036

AND

THEIR WORKMEN.

The General Secretary
Bombay Telephone Canteen Employees'
Association
C/o. Prabhadevi Telephone Exchange Canteen
1st floor, Dadar (W)
Mumbai-400 028

APPEARANCES:

For the Employer : Mr. V.S. Masurkar, Advocate

For the Workmen : Mr. M.B. Anchan, Advocate.

Mumbai dated the 18th June, 2013.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-40012/479/2000-IR (DU), dated 22.11.2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of General Manager, MTNL, Mumbai in terminating the services of S/Sh. Ratnaker M. Moraveera and Krishna K. Mogera is just, legal and proper? If not, to what relief the workmen are entitled?"

(2) After receipt of the order of reference from Ministry, notices were served on both the parties. In response to the notice, second party Union filed their statement of claim at Ex-11. First party management resisted the statement of claim of the union by filing their Written Statement at Ex-12. Issues were framed at Ex-14. The matter was fixed for evidence of union. Meanwhile Advocate for the second party union filed application dated 18/06/2013 (Ex-22) requesting to dispose of the reference as the workmen are not interested in pursuing the matter further. In the circumstances I think it proper to dispose of the reference. Thus the order:

ORDER

Reference is dismissed as withdrawn.

No order as to cost.

Date : 18/6/2013

K.B. KATAKE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 62.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड, गोआ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2, मुम्बई के पंचाट (संदर्भ संख्या 2/36-2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं० एल-40012/3/2006-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 62.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. 2-36/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of M/s. Bharat Sanchar Nigam Ltd., Goa and their workmen, received by the Central Government on 23/12/2013.

[No. L-40012/3/2006-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT: K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/36 of 2006

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. BHARAT SANCHAR NIGAM LTD.

The General Manager
Bharat Sanchar Nigam Ltd.
Panaji
Goa-403 001.

And

Their Workman
Smt. Mogra Vegus
Bambolim,
Pirabhat, House No. 129
P.O. Goa University
Bambolim, Goa.

APPEARANCES:

For the Employer : Mr. R.A.S. Kharangate,
Advocate.

For the Workman : Mr. P.J. Augustine, Advocate.

Mumbai, dated the 10th May, 2013

AWARD

1. The Government of India, Ministry of Labour & Employment by its Order No. L-40012/3/2006-IR(DU) dated 14/06/2006 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Bharat Sanchar Nigam Ltd., Panaji, Goa in terminating the employment of Smt. Mogra Vegus, Part time Scavenger w.e.f. 1/10/2001 is legal and justified? If not, to what relief the workman is entitled for?"

2. After receipt of the reference notices were issued to both the parties. In response to the notice the second party workman filed her statement of claim at Ex-10.

According to her she was working as a Part time Scavenger since the year 1991 at Telecommunications & Wireless Station and Inspection Quarters at Bambolim. Though she was working for three hours a day, in three different buildings, she was required to walk from one building to another to perform her work. The distance is around two to three kilometers between these buildings and infact she was required to work more than six hours a day for the payment of wages only for three hours. She was paid monthly wages Rs. 1700/-. She was doing her job diligently and honestly and there was no complaint of any nature with regard to her work. She has worked for more than 10 years in the Department of first party. On 1/10/2001 she was instructed by SDE (Wireless & Transmission), Bambolim not to come for the work and assured her that she would be called afterwards. Next day the workman gave a representation to General Manager requesting him to look into her grievance and to continue her with the inspection quarters as the wireless station was closed and her duty at Inspection quarter was still subsisting. They promised her orally to reinstate her. However no action has been taken. There is circular issued by the management of BSNL by which at the part time employees were confirmed as full time employees. However neither she was called for work nor reinstated. The workman claims that she is illiterate, poor widow without any work. Two children are dependent on her. She is in extreme need of work as she could not get any other employment elsewhere. Therefore she prays that the action of management of BSCL of terminating her employment be declared illegal and unjustified. She also prays for direction to the management of BSNL to reinstate her with back-wages and all consequential benefits with retrospective effect and also prays for suitable compensation from the management for her illegal termination.

3. The first party resisted the statement of claim vide its written statement at Ex-13. According to them contents in the statement of claim are not correct that second party was working for three hours per day and infact she was required to work for six hours. No such fixed time was ordered and she used to be called to perform the work as and when required for. They denied that second party was paid salary from Imprest Bill of Assistant Engineer/Sub-Divisional Engineer (Wireless), Bambolim. The payment was made for called basis work. They denied all the contents in the application that she was doing her work diligently and honestly and there was no complaint of any nature. They denied that she was shocked and surprised when all of a sudden she was instructed by SDE, Bambolim not to come for work and that she will be called afterwards. According to them they instructed the second party not to come for work as the Wireless Station at Bambolim was closed and there was no work. The request of second party was not considered as there was no vacancy and no work.

The second party was employed on hourly basis as such she was not confirmed as per the circular as a full time worker. Further as Wireless Transmission Station was closed, there was no work for second party. They denied that action of first party is illegal or arbitrary. Therefore they pray that the reference be dismissed with cost.

4. Following are the issues framed by my Ld. Predecessor at Ex-14. I record my findings thereon for the reasons to follow:

Sr. No	Issues	Findings
1.	Does the Second Party establish employee-employer relationship?	Yes
2.	Does she prove that she was illegally terminated?	Yes
3.	Is she entitled for relief as prayed for?	As per order below.
4.	What order	As per order below

REASONS

Issue No. 1:-

5. In this case, though the first party has denied the employer-employee relationship at the outset I would like to point out that, fact is not disputed that the second party workman was working as a Scavenger. According to the workman she was working daily for three hours at three different places which are located at a distance of 2/3 Kms and she was required to walk from one place to another and she was required to spend about six hours every day. The fact is not disputed that the workman was working at three places as a scavenger. According to the first party they used to call her as and when there used to be work. In this respect I would like to point out that, cleaning the premises of office and inspection quarters and taking away the dirt, garbage etc. may be a part time work. However it is a daily and permanent work. Cleaning of the premises of offices and inspection quarters cannot be called intermediate work. In the circumstances the version of the first party is unacceptable that it was not regular or daily work and they used to call her as and when there used to be work. The work of Scavenger to clean the premises and to take away the dirt and garbage is a daily and regular work. Therefore I hold that there is substance in the version of the second party that she was working daily for three hours for about 10 years i.e. since 1991 onwards. In a way she was a part time employee of the first party.

6. In this respect it is contended on behalf of the second party that as per the circular all part time workers were made regular workers. However no such circular is pointed out and copy thereof is not produced. Furthermore the workman herself has admitted in her pleading and cross as well that the wireless station was closed and there was

no requirement of scavenger. From the fact and circumstances on record it is revealed that, the second party was a part time worker working with the first party for about ten years, I therefore hold that there exists employee-employer relationship between the second party with the first party. Accordingly I decide this issue No. 1 in the affirmative.

Issue No. 2:—

7. As the second party has worked with the first party for about ten years as a Scavenger, she has worked more than 240 days continuously in a calendar year. In the circumstances she gets protection under Section 25-F of the I.D Act. From the facts on record it is revealed that the first party had discontinued the services of the second party as their Transmission Station was closed in the year 2001. In the circumstances, the first party was required to follow the procedure prescribed for retrenchment as contemplated under Sec 25-F of the I.D. Act. The first party has neither given notice nor paid the notice amount. They have also not paid the retrenchment compensation to the workman. Thus I hold that the workman was illegally terminated. Accordingly I decide this issue No. 2 in the affirmative.

ISSUE NO. 3:-

8. The workman herein has claimed for reinstatement. In this respect the Ld. adv. for the first party submitted that the second party cannot be absorbed or regularized in the service as she was not selected as per the procedure prescribed for appointment in the service of the first party. In support of his argument the Ld. adv. resorted to Apex Court ruling in Secretary, State of Karnataka & Ors. V/s. Uma Devi and Ors 2006 (1) SC 480 wherein the Hon'ble Court held that temporary or casual worker though continued in service for years together could not be entitled to be absorbed in regular service if the regular appointment was not made by following due process of selection as envisaged by the relevant rules. Furthermore it was also pointed out that the Wireless Transmission Station at Bambolim was closed for ever and therefore there is no work. In the circumstances direction of reinstatement cannot be given to the first party. Instead of that I think it proper to Award suitable compensation to the workman. Looking into the present condition and rate of inflation I think it proper to Award compensation of Rs. 70,000/- to the second party for unlawful termination or for retrenchment without following the procedure under Section 25-F of the I.D. Act. Accordingly I decide this issue No. 3 and proceed to pass the following order:

ORDER

The reference is partly allowed with no order as to cost. The first party is directed to pay retrenchment

compensation of Rs. 70,000 to the second party workman.

Date: 1/5/2013

K. B. KATAKE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 63.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य महानिदेशक, संचार के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एलसी/आर/29/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/20/94-आई आर (डी यू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 63.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/29/96) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chief General Manager, Telecom and their workman, which was received by the Central Government on 23/12/13.

[No. L-40012/20/94-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/29/96

Presiding Officer : SHRI R.B. PATLE

Shri Vinayak,
S/o Shri Sadashivrao Iraskar,
R/o Hanumanji Ward,
Balak Mandir,
Pandhurna,
Distt. Chhindwara

...Workman

Versus

Chief General Manager,
Telecom (RE) Project,
66, Bajaj Nagar,
Nagpur

...Management

AWARD

(Passed on this 24th day of September 2013)

1. As per letter dated 20-1-96 by the Government of India, Ministry of Labour, New Delhi, the reference is

received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/20/94-IR (DU). The dispute under reference relates to:

"Whether the action of the Chief General Manager, Telecom (RE) Project 66, Bajaj Nagar, Nagpur in stopping Shri Vinayak Iraskar S/o Sadashiv Rao casual labour from his duty w.e.f. 18-6-88 is justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Statement of claim is filed on behalf of workman at Page 10/1 to 10/2 does not bear signature of workman or his counsel. Ist party submits that he was working for more than 240 days prior to his termination. He is covered as workman under Section 25 B of I.D. Act. His services were terminated without notice, retrenchment compensation was not paid to him. On above ground, he prays for his reinstatement.

3. IInd party filed Written Statement at Page 11/1 to 11/2. The claim of Ist party is denied. It is submitted that workman engaged as casual mazdoor or as per need and exigency. He has not completed 240 days continuous service. Workman is not covered under I.D. Act. He was not retrenched by the management. IInd party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the Chief General Manager, Telecom General Manager, Telecom (RE) Project, 66, Bajaj Nagar, Nagpur in stopping Shri Vinayak Iraskar S/o Sadashiv Rao casual labour from this duty w.e.f. 18-6-88 is legal?

(ii) If not, what relief the workman is entitled to? Relief prayed by workman is rejected.

REASONS

5. Though the workman is challenging termination of his service, the statement of claim is not been signed by him or his counsel. It appears that copy of statement of claim is on record and original may have been received by IInd party. The endorsement acknowledging copy is appearing on statement of claim. The workman has not participated in the reference proceeding. He has not adduced evidence. Management filed affidavit of witness Deepak Singh Thakur consistent with pleadings in Written Statement. Workman has not completed 240 days continuous service remained unchallenged. I do not find reasons to discard evidence of management's witness. Therefore I record my finding in Point No. 1 I Affirmative.

6. In the result, AWARD is passed as under:—

- (1) Action of the Chief General Manager, Telecom (RE) Project, 66, Bajaj Nagar, Nagpur in stopping Shri Vinayak Iraskar S/o Sadashiv Rao casual labour from his duty w.e.f. 18-6-88 is legal.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

कांआ 64.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वरिष्ठ अधीक्षक, डाकघर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी. जी.आई.टी./एलसी/आर/23/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं एल-40012/21/92-आईआर(डी यू)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 64.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/23/93) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Senior Suptd. of Post Office and their workman, which was received by the Central Government on 23/12/13.

[No. L-40012/21/92-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/23/93

SHRI R. B. PATLE, Presiding Officer

Shri Ram Kumar Pal,

Gram Bhatagaon,

Near Hotel,

P.O Mathpurne,

Via R.S.O, Distt. Raipur

...Workman

Versus

Senior Suptd. Of Post Office,

Raipur division,

Raipur (Chhattisgarh)

...Management

AWARD

(Passed on this 26th day of September 2013)

1. As per letter dated 18-1-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/21/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Sr. Suptd. Of Post Office, Raipur Division Raipur (MP) in terminating the services of Shri Ram Kumar Pal Mail Van Driver w.e.f. 28-2-90 is justified? If not, to what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 2/1 to 2/5. The case of workman is that he was appointed on post of Mail Van Driver from 1-4-87. Initially he was employed on daily wages. The rate of daily wage employee was Rs. 21-61 paid to him. At the time of his termination, he was paid wages Rs. 38.90. That he had performed duties regularly from 1-4-87 to 28-2-89 sincerely. On 1-3-1989, when he attended duties, he was served with order dated 20-2-89 discharging him from service. One peon Shri R.R. Bhosle was posted as Mail Driver, one regular driver Maksood Khan was ordered to work in place of Shri Bhosle. That he was not allowed to join duties after 28-2-89. That his services were discontinued arbitrarily. It amounts to retrenchment under Section 2(00) of I.D. Act, He was not served with any chargesheet. Notice was not issued for termination. He was not paid retrenchment compensation, termination of his service is in violation of Section 25-F of I.D. Act That Maksood Kumar and Bhosle junior to him are retained as driver. As such Section 25-F of I.D. Act is violated. On such grounds, he prays for reinstatement with consequential benefits.

3. IInd party filed Written statement at page 9/1 to 9/2. The claim of workman is denied. IInd party submits that post of driver is Class D post and the Recruitment rules are prescribed. The recruitment of Group D employees are carried out by a Departmental Selection Committee. The workman was not appointed by such committee. Workman was employed on casual basis or daily wages from 25-3-87. He had not completed 240 days service in preceding year of his termination. Violation of Section 25-F of I.D. Act is denied. It is contended that the workman did not completed 240 days continuous working. He is not workman under Section 25(B) of I.D. Act. On such grounds, IInd party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) whether the action of the management of Sr. Suptd. of

In Negative

Post Office, Raipur Division
Raipur (MP) in terminating the
services of Shri Ram Kumar Pal
Mail Van Driver w.e.f. 28-2-90
is legal?

(ii) If not, what relief the workman is entitled to?" As per final order

REASONS

5. The workman is challenging order of his termination on the ground that the services were terminated in violation of Section 25-F of I.D. Act. IInd party management denied his above contention. Workman filed affidavit of his evidence. He has state that he was working as Mail Van Driver from 25.3.87. He was appointed on daily wages. He was paid wages Rs. 20.61. His services were terminated. Shri R.R. Bhosle was working in his place. That he had completed 240 days continuous service. Any chargesheet was not issued to him. In his cross-examination, he says that he was driver of Mail Van. He had worked as such from 87 to 89. He was engaged on daily wages. He has not received appointment letter. He received termination letter in writing. He had no enmity with the authorities. His evidence that he had completed more than 240 days continuous service is not challenged in his cross-examination. His evidence in above point is not shattered. Affidavit of Miluram Sahu is filed. He also supported evidence of 1st party working as Mail Van Driver from 1-4.87 to 28.2.89. His services were discontinued form 1-3-1989. Said witness in his cross-examination was unable to say how workman Ram Kumar was appointed. He did not remember whether he signed on the affidavit prepared by the bank. That he claims ignorance whether Driver Maksood, R.R.Bhosle are regularized. Documents Exhibit W-1 to W-4 shows workman was engaged on daily wages time to time as driver. Document Exhibit M-2 is application submitted by workman. The evidence discussed above is sufficient to prove that workman has completed 240 days continuous service. His service were terminated without paying notice pay or paying retrenchment compensation. Section 25-F of I.D. Act was not followed by management. Therefore I record my finding in Point No. 1 in Negative.

6. Point No. 2- In view of my finding in Point No. 1, termination of services of workman is in violation of Section 25-F of I.D. Act, question arises to what relief workman is entitled? Workman was working for about 2 years as Mail Van Driver. Considering the length of service put by him as a daily wage driver, his reinstatement in service would not be proper. Reasonable compensation would be proper. In my considered view, compensation Rs. 60,000/- would be proper. Accordingly I record my finding in Point No. 2.

7. In the result, Award is passed as under:—

(1) Action of the management of Sr. Suptd. of Post Office, Raipur Division Raipur (MP) in terminating the services of Shri Ram Kumar Pal Mail Van Driver w.e.f. 28-2-90 is not proper.

(2) IInd party management is directed to pay compensation Rs. 60,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of Award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 65.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अहिंसा एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/60/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं एल-16011/4/2005-आईआर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 65.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/60/2007) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Indore and their workman, which was received by the Central Government on 23.12.2013.

[No. L-16011/4/2005-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/60/07

SHRI R.B. PATLE, Presiding Officer

General Secretary,
All India State Bank of Indore
Employees Congress,
Hardev Niwas, 9, Sanwar Road,
Ujjain (MP)

...Workman/Union

Versus

Regional Manager,
State Bank of Indore,
Zonal Office, MP Nagar,
Bhopal

...Management

AWARD

(Passed on this 27th day of September, 2013)

1. As per letter dated 3-7-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-16011/4/2005-IR(DU). The dispute under reference relates to:

"(i) Whether the demand of the SPM Karamchhari Union for grant of pay scales of Rs. 5000-8000 to Senior Assistants w.e.f. 1.1.96 is legal and justified? If so to what relief the workmen are entitled to?

(ii) whether the action of the management of General Manager, Security paper Mill Hoshangabad in not granting the ACP Scheme to Group B, C and D employees on completion of 12 and 24 years is legal and justified? If not, to what relief these workmen are entitled to?"

(iii) Whether the demand of SPM Karamachari Union for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of services is legal and justified? If so, to what relief the workmen are entitled to?"

2. After receiving reference, notices were issued to the parties. 1st party Union submitted statement of claim at Page 5/1 to 5/6. The case of 1st party Union is that it had submitted charter of demands to the management claiming pay scale of Rs. 5000-8000 for Sr. Assistants w.e.f. 1.1.96, benefit of ACP Scheme to Group B, C and D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service. Above demands were not accepted by the management. The Union had given strike notice under Section 22 of I.D. Act opposing to go on strike. After expiry of 31 days, pursuing his demands, the Union has also submitted other demands which are not referred for adjudication.

3. Union submits that before implementation of Vth Pay Commission report, junior Assistant in the establishment of IInd party was placed in Pay Scale 1350-2200 and Sr. Assistant were placed in Pay Scale 1400-2300. When Part-A of Vth Commission Report were implemented, both junior Assistant and Sr. Assistant were placed in common revised Pay Scale 4300-7000 w.e.f. 1.1.96. That General Manager, Security Paper Mill Hoshangabad i.e.

after getting approval order from Ministry of Finance and economic affairs vide order dated 31.1.02 revising pay of Sr. Assistant from 4500-7000 to revise 5000-150-8000 w.e.f. 1.1.96. That said order was kept in abeyance to the detriment of the members of the Union. The implementation under part B revised Pay Scale, Asstt. were placed in Pay scale 1400-2300 were placed in Revised Pay Scale 5000-8000. The Assistants were getting pay scale after implementation of Part B Pay Scale. That Sr. Assistant who were higher in rank were not placed in said pay scale. As such the members of the Union are designated without logical reasons. Ist party union also submits that as per Central Civil Services, Revised Scale Para 46.9 of the Vth Commission Report Sr. Assistant who are members of Union are entitled to revised pay 5000-8000.

4. IInd party management Written Statement. The claim of Union is denied that the workman is minority Union. That management made repeatedly clear that its demands are neither reasonable or feasible. There was no evasive reply of management during conciliation proceedings. That in 1992 after implementation of NPC, the then posts of LDCs (Pay Scale 950-1500) UDCs (Pay Scale 1200-2040) were upgraded as Junior Assistant in Pay Scale 1350-2200 and Senior Assistant in Pay Scale 1400-2300. That in Para 66.62 of Vth CPC, the present designations and pay scales of Junior Assistants and Senior Assistants are based on a specialized scientific study done by independent agency therefore it is not desirable to make any change in the designations. IInd party reiterated that demand of Union for pay scale of Rs. 5000-8000 for Sr. Asstt. is not rational or justified. Other Contentions of the Union are denied. IInd party prays for rejection of the claim.

5. Union submitted rejoinder reiterating its contentions in Statement of claim filed by them.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the demands of Union claiming pay Scale of Rs. 5000-8000 for Sr. Assistants w.e.f. 1-1-96, benefit of ACP Scheme to Group B, C & D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service is legal? In Negative

1-1-96, benefit of ACP Scheme to Group B, C & D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service is legal?

(ii) If not, what relief the workman is entitled to?" Refief prayed by Union is rejected.

REASONS

7. Though the Union submitted statement of claim justifying his demand under reference., The Union failed to participate in the reference proceeding. Union failed to adduce any evidence to substantiate his demands under reference. On the other hand; management filed affidavit of its witness Shri K.N. Mahapatra covering contentions in Written Statement filed by the management. Management's witness was cross-examined. In his cross-examination, management's witness says the department had correspondence with the finance deptt. He was unable to tell on what basis the pay scale was denied by the Finance Deptt. that after the order dated 20-4-06 passed by CAT, the order of 2002 was cancelled. The copy of the order passed by CAT bench Jabalpur in Original Application No. 707/06 is produced Exhibit M-1.

In Para-9 of the judgement, Hon'ble members of the CAT observed the psrual of above would establish that erstwhile post held by the applicant has been upgraded only in the year 1992 and Vth CPC in its recommendations specifically observed that present designations and pay scales of Junior Assistants and Senior Assistants in Security Paper Mill are based on specialized scientific study done by independent agency and therefore it did not require any change either in pay scale or in designations

The Copy of order dated 20-4-06 is produced withdrawing order dated 31-1-2002. Union has not adduced evidence to substantiat that demands under reference. Therefore I record my finding on Point No. 1 in Negative.

8. In the result, Award is passed as under:—

- 1 Demand of Union claiming pay scale of 5000-8000 for Sr. Assistants *w.e.f.* 1-1-96, benefit of ACP Scheme to Group B, C & D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service are not justified.

- (2) Relief prayed by Union is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 66.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी० एस० एन्० एल्० जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (184/1991) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल्-40012/55/1991-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 66.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.184/1991) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of BSNL Jabalpur and their workmen, received by the Central Government on 23/12/2013.

[No. L-40012/55/1991-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/184/91

SHRI R.B. PATLE, Presiding Officer

Shri Mukesh Kumar,
S/o Late Shri Basar,
Prem Sagar, Sahu Mohalla,
Bai ka Bgicha,
Jabalpur.

...Workman

Versus

The District Engineer,
BSNL,
Wright Town,
Jabalpur.

...Management

AWARD

(Passed on this 18th day of September, 2013)

1. As per letter dated 11-10-91 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-40012/55/91-IR(DU). The dispute under reference relates to:

"Whether the action of the management of District Engineer, Telecommunication, Jabalpur in terminating the services of Shri Mukesh Kumar, S/o Late Shri Budha, Ex-Labour *w.e.f.* Dec-89 is justified? If not, to what relief is the workman entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/3. The case of Ist party workman is that he was working as labour with IInd party No. 2. He was provided job on compassionate ground in April 1986 due to disability/paralysis by his father. That after completion of one year service, he submitted application to IInd party No. 2 on 28.4.87, 16-6-89 requesting for status of regular employee. He should be taken on muster roll, That the Ist party workman had gained status of quasi permanent employee. He had requested many times for regularization in service/

regular employee but IInd part No. 2 instead of regularizing his services, prevented him from doing his job and as such terminated his service in December 1989. He was terminated without reasons, without giving notice. That he had challenged order of his wrongful termination filing appeal. The appeal was not considered. Notice was issued through Advocate on 5-7-1990 to the IInd party. No action was taken in spite of his notice. His service were terminated without giving any opportunity. Thereafter he filed application before ALC, Jabalpur on 26-11-90 and the matter was finally referred by the Government.

3. IInd party filed Written Statement at Page 8/1 to 8/2. Claim of Ist party workman is totally denied. It is submitted that the workman has completed 240 days continuous service. He was working as casual labour and not labour on muster roll. It is denied that workman had acquired quasi permanent status of employee. It was not continued on 90 days on duty. There was no question of granting temporary status. IInd party prays for rejection of his claim.

4. Workman filed his rejoinder at Page 9/1 to 9/3. He has denied contentions of the management and reiterated his claim submitted in his statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the Management of District Engineer, Tele-communication, Jabalpur in terminating the services of Shri Mukesh Kumar, S/o Latge Shri Budha, Ex-Labour w.e.f. Dec-89 is legal/	In Affirmative
(ii) If not, what relief the workman Entitled to?"	Relief prayed by workman is reject

REASONS

6. Though workman has filed Statement of Claim challenging termination of his service was without notice, he has failed to submit evidence to substantiate his claim. The evidence of workman was closed on 17-12-09. Management filed affidavit of evidence of witness Deepak Singh Thakur. The witness of the management as stated that workman was never engaged on muster roll. He may have worked on casual basis for 3-4 days. He may not have been engaged regularly by the management as the workman was not working on muster roll. He has not acquired status of regular employee. There is no question of termination of his service as workman did not worked continuously with the management. The evidence of management's witness remained unchallenged. Workman did not participate in reference proceeding. He failed to adduce evidence to substantiate his claim. He failed to cross-examine the

witness of the management. I do not find reasons to disbelieve unchallenged evidence of management. Workman has not established that he was working continuously for 240 days preceding the alleged termination of his service. There is not evidence that the workman is covered under Section 25-B of I.D. Act, therefore he is not entitled to relief under provision of Section 25-F of I.D. Act. For above reasons, termination of workman cannot be said illegal.

7. In the result, award is passed as under:—

(1) Action of the management of District Engineer, Telecommunication, Jabalpur in terminating the services of Shri Mukesh Kumar, S/o Late Shri Budha, Ex-Labour w.e.f Dec-89 is legal.

(2) Relief claimed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 67.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीग्राफ ट्रैफिक, डी.टी.ओ. बिलासपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 209/1993) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/123/1992-आई आर (डी यू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 67.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 209/1993) of the Central Government Industrial Tribunal cum Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Telegraph Traffic, DTO, Bilaspur their workman, which was received by the employers in relation to the Central Government on 23.12.2013.

[No. L-40012/123/1992-IR (DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/209/93

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Ram Kumar Gond,
S/o Shri Sahar Singh Gond,
Gram/Poste Hardikalatona,
Distt. Bilaspur (MP) ... Workman

Versus

The Asstt. Suptd.,
Telegraph Traffic,
D.T.O.
PO & Distt. Bilaspur

...Management

AWARD

Passed on this 22nd day of October, 2013

1. As per letter dated 30-9-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/123/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Asstt. Suptd. Telegraph Traffic, DTO Bilaspur in retrenching Shri Ram Kumar Gond, S/o Shri Sahar Singh Gond w.e.f. 7-8-90 is legal and justified/ If not, what relief the workman concerned is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed his statement of claim at Page 2/1 to 2/2/. Case of Ist party workman is that he was working as labour in IInd party Head Post Office from 9-6-85. That he was working with devotion. His services were terminated from 7-8-90 without notice in violation of the provision of I.D. Act. That he was receiving wages Rs. 1100/- at the time of termination of his services. On such grounds, Ist party prays for reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 8/1 to 8/3. Case of IInd party is that Ist party workman had filed false fabricated case. He was working as casual labour. Workman was paid daily wages for the working days. It is denied that the workman was working as Messenger. The particulars of working days of workman are given 20 days in 1985, 304 days in 1986, 322 days in 1987, 322 days in 1988, 247 days in 1989, 249 days in 1990 and 149 days in 1991. The violation of the provisions of I.D. Act is denied. That workman was engaged as casual labour. It is not possible to regularize his services. As the engagement of casual labours was prohibited, the services of workman were discontinued. That in conciliation proceedings, there settlement could not be arrived between the parties despite they were in agreement that one month's notice pay could be paid as per Section 25-F of I.D. Act on such grounds, IInd party prays for rejection of claim.

4. Workman filed rejoinder at Page 9/1 to 9/4 reiterating its contentions that he was working with devotion for more than 5 years and his services are terminated without notice.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|----------------------|
| (i) | Whether the action of the management of Asstt. Suptd. Telegraph Traffic, DTO Bilaspur in retrenching Shri Ram Kumar Gond, S/o Shri Sahar Singh Gond w.e.f. 7-8-90 is legal? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final orders. |

REASONS

6. The workman is challenging termination of his services from 7-8-90 alleging that his services are terminated without notice in violation of provisions of I.D. Act. The IInd party contends that workman was engaged as casual labour and as employment of casual labour was prohibited in the department, his services are discontinued. That last wages paid to the workman was Rs. 1005/- per month. The workman has filed affidavit of his evidence covering most of his contentions in statement of claim. That his services were terminated without notice. From 29-5-85 to 7-8-90, he was continuously working without break, he had completed 240 days continuous service during each of the year. However the workman did not present himself for cross-examination by the adversant party. As normal rule, his evidence cannot be considered in support of his claim. However IInd party in para-2 of the Written Statement has shown details of the working days of workman from 1986 to 1990 more than 240 days. In para-6(b) IInd party has also referred to some consent between parties during conciliation proceedings without notice pay under Section 25-F has been paid.

7. IInd party has not adduced evidence despite given to him. From written statement filed by IInd party, it is clear that during 1986 to 1990, workman was working for more than 240 days. Despite the workman had not made available for cross-examination in view of demand in Written Statement, the claim of workmen is substantiated in view of workman was continuously working from 1985 to 1990 for 6 years. The pleadings in Written Statement are silent about payment of retrenchment compensation to workman. The workman is entitled to retrenchment compensation equal to 15 days wages for completed service for each of the year. Thus Ist party workman is entitled to retrenchment compensation equal to 90 days wages. IInd party has not issued notice for termination of services of the workman. Therefore workman is entitled to wages for one month and retrenchment compensation for 90 days wages. From the pleadings of the IInd party itself shows that provisions of Section 25-F were not complied therefore I record my finding on Point No. 1 in Negative.

8. In the result, Award is passed as under:—

- (1) Action of the management of Asstt. Suptd. Telegraph Traffic, DTO Bilaspur in retrenching Shri Ram Kumar Gond, S/o Shri Sahar Singh Gond w.e.f. 7-8-90 is not legal.
- (2) IInd party management is directed to pay one months notice pay Rs. 1005/- and 90 days wages i.e. 3 months pay towards retrenchment compensation Rs. 3015/-.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of Award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

कांआ 68.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गवर्नमेंट ओपियम एंड अल्कालॉयड फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 215/1998) को प्रकाशित करती है, जो केंद्रीय सरकार को 23.12.2013 को प्राप्त हुआ था।

[सं एल-42012/52/1998-आईआर (डी०यू०)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 68.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 215/1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Government Opium & Alkaloid Factory and their workmen, received by the Central Government on 23/12/2013.

[No. L-42012/52/1998-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/215/98

SHRI R.B. PATLE : Presiding Officer

Shri Rishi Kumar Pathak,
S/o Rudra Prasad Pathak,
95, Hudco Colony,
Distt. Mandsour,
Neemuch

.....Workman

Versus

General Manager,
Govt. Opium & Alkaloid Factory,
Neemuch, Distt. Mandsour
Neemuch

.....Management

AWARD

(Passed on this 18th day of November 2013)

1. As per letter dated 10-9-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/52/98/IR(DU). The dispute under reference relates to:

"Whether the action of the management of General Manager, Govt. Opium & Alkaloid factory in terminating the services of Shri Rishi Kumar Pathak w.e.f. 29-5-95 is legal and justified? If not to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman filed Statement of claim at Page 2/1 to 2/7. The case of Ist party workman is that he was appointed with Non-applicant on 2-8-1972. He was continuously working. Chargesheet was served on him on 10-2-95. Workman submits that the allegations were false and frivolous. The provisions of standing order are applicable to the employees of IInd party. Services are also covered by CCS CCA Rules 1965. He claims to be workman under I.D. Act. He had submitted application for leave from 22-8-94 to 27-8-94. Applications were forwarded to the Section Incharge. He was not communicated about sanction of leave. He had proceeded for some Union activities as a member of a delegation to New Delhi. He was Vice President of the Registered Union. He had complained against General Manager about favoritism, irregularities, any recruitment. Irregularities in fixing the productivity targets. Misuse in name of nationalization in the flat etc. the General Manager took it personally and developed personal enmity against him.

3. That he was absent from duty. It was matter of chargesheet dated 19-2-95. His absence from 22-8-94 to 27-8-94 was regularized. Said period cannot be subject matter of disciplinary proceedings. That he had submitted various applications during his services for grant of EL. When he asked for record pertaining to leave in the enquiry, it was not produced. The witnesses is not allowed to be cross-examined. The workman has alleged that enquiry was not properly conducted. He was not given opportunity for his defence. As such principles of natural justice were not followed. The punishment of dismissal is highly disproportionate. Enquiry Officer was biased. The punishment is violative of Article 14, 311 of I.D. Act. On such ground, he prays for reinstatement with full back wages.

4. IInd party filed Written Statement at Page 7/1 to 7/4. IInd party submits that workman was appointed on 1-3-75 as technical Grade-II and not on 2-8-72 claimed by the workman. His services were terminated on 2-2-1981. He was reinstated as per Award by this Tribunal dated 19-9-84. That the workman was served with chargesheet relating to unauthorized absence for the period 22-8-98 to 27-8-98. IInd charge was about indelcent behaviour with Administrative Officer Shri Gheesalal Nainwaya on 3-2-95. The chargesheet was issued for contravention of Rule 3(1) (ii) and (iii) of CCS Conduct Rule 1964. Workmen contented that CCS Rules are not applicable. The standing orders governs the services of the employees. That the enquiry was conducted. Workman had submitted that General Manager himself was Enquiry Officer. The defence witnesses were scared. The charges framed against him doesnot amount to misconduct etc. It is reiterated that the enquiry was conducted following principles of natural justice. Workman remained absent on different pretext including illness. The Defence Witnesses had appeared. Their statements were recorded in absence of the workman. The witnesses of the department have given voluntary statements. The punishment of dismissal was imposed, was confirmed in the appeal. IInd party prays for confirmation of the order of dismissal.

5. The enquiry conducted against workman is found vitiated by my predecessor *vide* order dated 3-7-2012 for want of pleadings. IInd party was not permitted to prove misconduct. The parties were give opportunity to adduce evidence on other issues.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--------------------|
| (i) Whether the action of the management of General Manager, Govt. Opium & Alkaloid factory in terminating the services of Shri Rishi Kumar Pathak w.e.f. 29-5-95 is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to? | As per final order |

REASONS

7. As stated above, the enquiry conducted against Ist party workman is found vitiated by my predecessor as per order dated 3-7-2012. Management was not permitted to prove misconduct of workman in Court. The enquiry is vitiated. The finding of Enquiry Officer about misconduct alleged against workman cannot be said legal. The evidence in Enquiry Proceedings cannot be considered for proof of the alleged misconduct. The order dated 3-7-2012 vitiating enquiry against workman is not challenged before Supreme Court. The said order

has received finality. The findings of Enquiry Officer cannot be accepted. Secondly the order of dismissal of service of workman cannot be said legal. In view of the enquiry itself is held illegal, there is not point in recording evidence in such issues. Order of punishment is illegal as enquiry against workman is found vitiated. Therefore the order of dismissal from service of workman needs to be set-aside. The parties have not adduced any evidence whether the workman is working somewhere as order of dismissal is illegal, the workman deserves to be reinstatement. There is no question of denial of back wages to him. For above reasons, I record my finding in Point No. 1 in Negative.

8. In the result, Award is passed as under:—

- (1) Action of the management of General Manager, Govt. Opium & Alkaloid factory in terminating the service of Shri Rishi Kumar Pathak w.e.f. 29-5-95 is not legal and proper.
- (2) IInd party is directed to reinstate workman with full back wages and continuity of service.

R. B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 69.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिक्कुरिटी पेपर मिल, होशंगाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 222/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं० एल-16011/1/1991-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 69.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 222/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Security Paper Mill, Hoshangabad and their workmen, received by the Central Government on 23/12/2013.

[No.L-16011/1/1991-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/222/93

Presiding Officer: Shri R.B. PATLE

The General Secretary,
SPM Employees Union,
Hoshangabad

The President,
SPM Staff Union,
Hoshangabad

The General Secretary,
SPM Karmchari Union,
Hoshangabad

Working President,
Pratibhuti Kaguj Karkhana
Mazdoor Sangh,
Hoshangabad

...Workman/Union

Versus

The General Manager,
Security Paper Mill,
Hoshangabad

...Management

AWARD

(Passed on this 18th day of November, 2013)

1. As per letter dated 20-10-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-16011/1/91-IR(DU). The dispute under reference relates to:

"Whether the demand of the workers of SPM Hoshangabad to work for 44 hours in a week like the workers working in other presses of Ministry of Finance is justified? If yes, what relief the workman concerned are entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted Statement of claim at Page 2/1 to 2/5. The case of Ist party Union is that the Ministry of Defence, Deptt. of Economic Affairs has established Security Paper Mill, Hoshangabad, Security press Nasik, Bank Note Press, Dewas, Govt. of India, Mint Bombay, Calcutta, Hyderabad and Noida. That except SPM Hoshangabad, the working hours of all the presses are 44 hours and Mind is 37/12 hours, Back in 1968, various workers in SPM Hoshangabad had represented to management and the Govt. of India that working hours of Security Paper Mills should also be 44 hours. The management as well as Government assured the case will be sympathetically considered and necessary orders will be passed. That on repeated representations by Union similar assurance were given that there will be no hostile discrimination as far as the workers are concerned, they will be treated in similar way. That as their demand in that regard were not materizlized by Government, the Unions placed the matter for conciliation under I.D.Act. however reference could not be made because of repeated assurance given by the department. That in all other establishments,

working hourse are 37 1/2 hours, 44 hours. It is only in SPM that the working hours are shown as 48 hours a week. There is no justification for different working hours in one establishment having less working hours in other establishment. On such ground, the Union are praying that the workers in SPM are entitled to 44 hours working from 1968 onwards for extra work, they are entitled to overtime at double the rate if not 1 1/2 rate for 4 hours.

3. Management filed Written Statement at Page 8/1 to 8/2. IInd party submits that the reference is based on demand initiated by Union in 1991 therefore Tribunal is precluded from deciding the matter right from 1968. Thus prayer contained in Statement of Claim is beyond limitation. The IInd party denies that no assurance were given for reducing working hours at any time. That there are security printing press at Hyderabad and Currency Note Press at Nasik Road under administrative control of the Ministry of Finance, Department of Economic Affairs. As paper making is a continuous process, the mill is required to function round the clock all the 7 days in the week except the gazette holidays, the duration of each shift being 8 hours per day and 48 hours a week. The working hours of Mill have been the same from the inception of the Mill. It is further submitted that all other industrial units under the administrative control of the Ministry of Finance work for 44 hours or less per week as per the process requirement of these units. On such ground, IInd party submits that the demand of Union may not be accepted.

4. The reference was decided by my predecessor on 10-1-2006 that the demand of Union for reducing working hours to 44 hours a week was allowed. The Award was made applicable from 1968. Said Award was challenged by the management of IInd party filing Writ Petition No. 5388/2006. The writ petition is decided on 26-3-2008, the matter is remanded for limited ground for giving reasons to justify the year 1968 to make the Award operative.

5. Considering the pleadings and directions in Writ petition by Hon'ble High Court, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) From what date effect should be given to the Award dated. 10-1-2006 passed by this Tribunal?	Effect of the Award be given from date of reference i.e. 20-10-93.
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REASONS

6. As discussed above, considering the pleadings and evidence adduced by parties, my predecessor has passed Award on 10-1-2006 reducing the working hours to 44 per week. The Award is made effective from 1968. Hon'ble High Court has remanded the matter. In para-6 of the judgement, his Lordship observed under circumstances,

the Tribunal since has not given the reasons for fixing the date of making Award effective in terms of Section 17-A therefore it will be appropriate to remand the matter to the Tribunal. After the remand, it shall only be limited for giving the reasons to justify whether the AWARD shall become effective from 1968 which is already fixed by the Tribunal. The learned counsel for Union Shri Shashi pointed out that there was settlement with one Union dated 6-1-95. All Union are parties to the reference were not signatory to the settlement and therefore this settlement is not binding. The document produced Page 9/1 shows that Shri Hargovind Yadav, working President and Shri L.L. Raghuwanshi, General Secretary of the Union were signatory of the settlement. Clause-I of the settlement provided that the management and Union had agreed that normal hours of work for all employees other than those whose normal hours of work are already 44 hours per week *w.e.f.* 15-1-1995. After remand of the matter, affidavit of Santosh Gour is filed on behalf of the Ist party union. His affidavit is devoted about repeatedly demand was pursued by the union time to time. that the working hours 37 1/2 hours and 44 hours are provided except SPM. There are 48 hours a week. The affidavit of witness of Union shows that the demand was pursued since 1968 by the Union. Union filed next affidavit of witness Shri B. D. Chourey. He also says that the demand of working hours are pursued time to time. in 1979, Shri R.S. Thakur become General Secretary. He was taking up case along with office bearer for reducing working hours to 44 hours. Shri R.S. Thakur in his evidence on affidavit has stated that demand was pursued by the Union at different levels since 1968. That he was elected as General Secretary in 1979. He was repeatedly representing the matter before the General Manager Shri S.R. Pathak and Shri P.C. Panth. He had met the ministers Shri Dalbir Singh, Magan Bhai Barot, Manmohan Singh, Secretaries and officers of the Ministry. That he would obtain letters from SPM office on 25-4-89, 30-4-90, 6-7-90, 18-2-90 & 9-3-90, copies of letters are produced.

7. Management filed affidavit of evidence Shri K.L. Mahapatra. The witness of the management has stated that the Award was passed on 10-1-06 holding that the demand of workers is justified therefore working hours of employees of SPM be reduced to 44 hours from the time of demand taken up by the Union in 1968. The witness also narrated that the Award is set-aside by Hon'ble High Court for giving reasons to about the date of giving effect to the Award from 1968. In his cross-examination, witness of the management says that he had not participated in agreement between Union and management. He was unable to tell rule prescribed 48 working hours in a week. The copy of judgement in original application 94/98 is produced. The claim in petition before CAT was challenging increase of working hours from 37 1/2 to 44 hours was rejected. Said judgment has not bearing to controversey between the parties. As per directions while remanding the matter only reason for giving effect from 1968 are to be given.

8. Though the matter was pursued by Union at different times, the demand was not pursued filing

appropriate proceeding. The legal position about the date of giving effect to the Award under Section 17-A is clear that normal effect should be given to the Award from date of reference. As in present cast, though the effect was given from 1968 as per Award dated 10-1-2006, I do not find reason to support the same.

"In view of I.D. Act by Shri K.P. Chakravorty, the commentary of I.D. Act Page 282, under Section 17-A, an Award shall come into operation with effect from such date as may be specified therein but where no such date is so specified, it shall come into operation on the date when no such date is so specified, it shall come into operation on the date when the Award becomes enforceable. Under Sub Section (4) of this section, there is a discretion in the Tribunal to order for enforcement of its Award. In relation to the fixation of the date from which the Award should operate no general principles can be laid down. The date from which the Award is to be made effective is in the discretion of the Tribunal. Ordinarily it should be made effective from the date of reference."

Therefore the Award dated 10-1-2006 passed by my predecessor be given effect from date of reference *i.e.* 20-10-93. Accordingly I record my finding in Point No. 1.

9. In the result, Award is passed as under :—

- (1) Award dated 10-1-2006 be given effect from date of reference *i.e.* 20-10-1993.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 70.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलिकॉम प्रोजेक्ट ईस्ट, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 186/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं० एल-40012/356/2000-आई आर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 70.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 186/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Telecom Project East, Jabalpur and their workmen, received by the Central Government on 23/12/2013.

[No.L-40012/356/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****No. CGIT/LC/R/186/2000**

Presiding Officer: SHRI R.B. PATLE

Shri Naveen Kumar Sharma,
S/o Shri Umesh Chandra Sharma,
123/2, New Tutline, GCF Estate,
Jabalpur .

...Workman

Versus

Director,
Telecom Project East,
MP Area, 36/14,
HIG, Katanga Colony Cantt.,
Jabalpur

...Management

AWARD**(Passed on this 22nd day of October, 2013)**

1. As per letter dated 31-10-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/356/2000/IR(DU). The dispute under reference relates to:

"Whether the action of the management of Director, Telecom Project East, MP Area, Jabalpur Divisional Engineer Telecom Optical Fibres, Cable Project, Division No. 1, Jabalpur not to regularize the services of Shri Naveen Kumar Sharma to the post of Driver and subsequently terminating his service w.e.f. 31-10-96 is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/5. Case of workman is that in January 1994, he was appointed on daily wages as Driver by IInd party. That he was asked to drive tempo traveler of the Senior Sub-Divisional Engineer. On Vehicle No. MP-H-1484. That he was driving said vehicle till 31-9-96 (wrongly written). That he had worked for more than 240 days in a year as such attended temporary status. Management has not passed any order in that regard. His services were orally discontinued by the Divisional Engineer Shri S.T. Abbas. He challenged said order filing original application No. 908/96 before Central Administrative Tribunal. Order was passed by CAT to decide representation of Ist party workman by 31-1-97. The Director had deposed his representation observing that he was appointed purely on contractual basis not against sanctioned post. The points raised in his representations were not built with.

3. Workman submits that he had worked for more than 2 years. His services were discontinued to deprive him regularization. The officers used to put names of other persons in logbook. The original application was also rejected on other ground that he can invoke alternate

remedy for redressal of his grievance. Original application 155/98 was filed in CAT by him was disposed observing the workman can agitate his grievance before appropriate forum. After failing conciliation proceeding, the dispute has been referred. Workman submits that his termination from service is in violation of Section 25-F of I.D. Act. He prays for reinstatement with regularization in service.

4. IInd party filed written Statement at page 5/1 to 5/2. IInd party submits that the workman was engaged as casual driver for sometime by oral order in January 1994. His services were discontinued as said period was over. Here was no question for giving order in writing for removal from service. That original application 908/96 was dismissed by CAT. That management considered the representation of the workman as it was found that he was appointed on contractual basis and not appointed against regular post. His representation was rejected.

5. IInd party further submits that workman was not regular employee so there was no question of regularization of his service. Rejection of representation to workman is legal. Original application 155/98 was rejected by CAT for lack of jurisdiction. It is further contented that as Ist party workman was engaged as casual driver, there was no question of giving notice or paying retrenchment compensation. On such grounds, IInd party prayed for rejection of claim of workman.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the action of the management of Director, Telecom Project East, MP Area, Jabalpur Divisional Engineer Telecom Optical Fibres, Cable Project, Division No. 1, Jabalpur not to regularize the services of Shri Naveen Kumar Sharma to the post of Driver and subsequently terminating his service w.e.f. 31-10-96 is legal? | Termination of Services of Ist party workman is in violation of Section 25-F of I.D. Act but the workman is not entitled for regularization. |
| (ii) If not, what relief the workman is entitled to? | As per final order. |

REASONS

7. Ist party workman claiming to be working as Driver for more than 2 years with IInd party challenges termination of his services for violation of Section 25-F of I.D. Act. IInd party contends that workman was engaged as casual employee orally. He is not entitled to notice or retrenchment compensation. Workman filed affidavit of his evidence stating that he was working as Driver with IInd party from 29-1-94 to October 1996. He has completed 240 days continuous service. In his cross-examination, workman says he was not called for interview. The post was not advertised.

He was paid wages for all working days. He was working as casual labour. The documents Exhibit W-1 produced on record shows that notification was issued by General Manager, Telecom District Jabalpur for filling vacancies of two drivers and 3 drivers from casual labours. Notification was issued on 20-9-95. Document W-2/4 to 2/116 produced by workman is copy of log book. The name of Driver is not written in those documents. Vehicle Number is mentioned as M.P. 20-H-1484 in some copies of log books. The workman was not subjected to cross-examination. Document Exhibit W-3 is copy of driving licence admitted by IInd party. Document Exhibit W-4 is order passed by CAT, Jabalpur dated 30-12-96. Document 7/7 admitted by IInd party shows that matter for regularization of services of 1st party workman was under construction.

8. Management filed affidavit of witness Shri A.P. Pawar. Management's witness in his cross-examination says that he had seen the log book and order passed by CAT in the matter. He is not acquainted with the workman. He claims ignorance whether the document about appointment of 1st party was found. That he had not brought any document from office. He claims ignorance for what period the workman was engaged and what was the conditions of his appointment. The copies of log book were referred to him. Documents are marked Exhibit W-1.

9. The evidence of workman is supported by Exhibit W-1. He also hold driving licence W-2, notice was not issued to the workman for terminating his services, he was not paid retrenchment compensation. Therefore termination of his services is illegal. For above reasons I record my finding in Point No. 1 in Negative.

10. Point No. 2— In view of my finding in Point No. 1, service of workman is terminated in violation of Section 25-F, question arises as to whether the workman is entitled for regularization or reinstatement in service. As per evidence in cross-examination of workman, post was not advertised, he was not called for interview. The appointment of workman was not followed by selection process.

11. On the point of regularization, learned counsel for workman Shri R.K. Soni relies on ratio held in case of State of Karnataka and others versus M.L. Kesari and others reported in 2010 STPL(LE) 44039 SC.

"In para-7, their Lordship held exception to the general principles against regularization enunciated in Umadevi (AIR 2006/SC 1806); if the following conditions are fulfilled—

- (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or Tribunal.
- (ii) Appointment of such employee should not be illegal, even if irregular. Where the

appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal."

- (iii) 1st party workman had hardly worked for about 2 1/2 years therefore he is not covered within above exemption for relief of regularization. 1st party workman hardly worked about 2 1/2 years as casual employee. Considering the spam of service, reinstatement with back wages would not be appropriate. For termination in violation of Section 25-F, reasonable compensation would be justified. On the point of compensation, learned counsel for 1st party Shri R.K. Soni relies on ratio held in —

"Case of Bharat Sanchar Nigam Limited versus Man Singh and others reported in 2011 STPL(LE)45917SC . Their Lordship dealing with violation of Section 25-F in case of daily wagers held compensation in lieu of reinstatement, the respondent workmen were engaged as daily wages and they had merely worked for more than 240 days. Relief of reinstatement cannot be said justified. Instead monetary compensation would meet the ends of justice. Compensation of Rs. 2 Lakhs was allowed towards full and final settlement."

In above cited case, workman were working as casual labours on daily wages during the year 84-85. Their services were terminated in 1986, no notice of retrenchment compensation was given to him before terminating services. After about 5 years, industrial dispute was raised in 1990. Ratio in several cases were also submitted before me in other cases.

"Senior Superintendent Telegraph (Traffic) Bhopal versus Santosh Kumar Seal and others reported in 2010 (6) Supreme Court Cases 773. Their Lordship dealing with the point of reinstatement with back wages held relief by way of reinstatement with back wages not automatic even if termination of employee is found to be illegal or in contravention of the prescribed procedure and monetary compensation in cases of such nature may be appropriate. On facts as the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2-3 years, relief of reinstatement and back wages to them cannot be said to be justified. Monetary compensation of Rs.40,000 was directed to be paid."

For violation of Section 25-F, compensation was allowed ranging from Rs. 40,000 to Rs. 75,000. Considering short spam of service rendered by workman, compensation Rs. 1 Lakh would be appropriate in the case. Accordingly I record Point No. 2.

12. In the result, Award is passed as under:—

- (1) Action of the management of Director, Telecom Project East, MP Area, Jabalpur Divisional Engineer Telecom Optical Fibres, Cable Project, Division No. 1, Jabalpur not to regularize the services of Shri Naveen Kumar Sharma to the post of Driver and subsequently terminating his service w.e.f. 31-10-96 is not legal.
- (2) IInd party management is directed to pay compensation Rs. 1 Lakh to the workman Shri Naveen Kumar Sharma.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9 % interest per annum from the date of Award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

का०आ० 71.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल फार्म मशीनरी ट्रेनिंग एंड टेस्टिंग इंस्टिट्यूट, बुदनी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 154/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं० एल-42012/55/1996-आई आर (डी यूं)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 71.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 154/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial dispute between the management of Central Farm Machinery Training and Testing Institute, Budni and their workman, received by the Central Government on 23-12-2013.

[No. L-42012/55/1996-IR (DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/154/97

Presiding Officer: SHRI R.B. PATLE

Shri Ram Singh,
S/o Surajpal,
Behind Rly station,

Godi Mohalla,
Budni, Distt. Sehore (MP)

...Workman

Versus

The Director,
Central Farm Machinery Training
and Testing Institute, Tractor Nagar,
PO-Budni, Distt. Sehore (MP)

...Management

AWARD

(Passed on this 2nd day of August 2013)

As per letter dated 30-5-97 by the Government of India, Ministry of Labour, New Delhi the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No.L-42012/55/96-IR(UD). The dispute under reference relates to:

"Whether the action of the management of Central Farm Machinery Training and Test Institute, Budni in terminating the services of Shri Ram Singh, S/o Surajpal is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed Statement of claim at Page 2/1 to 2/2. The case of Ist party workman is that he was employed by the IInd party on daily wage casual labour in 1990. Since his initial engagement, he was continuously working with the IInd party till 1994. That he had worked for 240 days during each of the calendar year and even 12 months preceding his retrenchment from service. Though the workman continuous rendered service, he was not regularized, permanent status was not given to him with ulterior motive. The management of IInd party adopted pick and choose policy. That the management had regularized services of 24 employees out of which three were over aged namely Shri Gulab, Shivilal and Narmada Prasad. Their services were regularized. That IInd party deliberately discontinued his services to accommodate those workman. Discontinuation of workman from service is illegal. Provisions of Section 25-F, G & H of I.D. Act were not complied. On such grounds, workman prays for reinstatement with consequential benefits.

3. IInd party management even after receiving notice failed to appear. IInd party was proceeded exparte as per order dated 15-06-07.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of Central Farm Machinery Training and Test Institute, Budni in In Negative.

terminating the services of
Shri Ram Singh, s/o Surajpal
is legal?

- (ii) If not, what relief the workman is entitled to?" As per final order.

REASONS

5. Ist party workman is challenging termination of services. The workman has filed affidavit of his evidence. The workman has stated that he was engaged by IInd party on daily wages in 1990 after holding interview. That he worked for more than 240 days during each of the year 1990 to 1994. His services were not regularized as per the Regularisation Scheme for casual labours of Govt. of India. That other overaged employees Gulab, Shivilal and Narmada Prasad and junior employees Hiralal, Ashok Kumar and Suresh were regularized from July 1994. The services of Ist party workman were illegally terminated. The evidence of workman remained unchallenged IInd party has not participated in the reference proceeding. IInd party is proceeded exparte. Considering unchallenged evidence of workman, I donot find reason to discard his evidence. From evidene on record, it is established that the services of workman are terminated in violation of Section 25-F of I.D. Act as such illegal. For above reasons, I record my finding in Point in No. 1 Negative.

6. Point No.2- question arises as to what relief the workman is entitled? Whether the workman is entitled for reinstatement with back wages? The unchallenged evidence of workman shows he is out of employment from 1994 for about 19 years. Ist party workman was working as daily wage employee. His reinstatement would not be justified. Considering the period of his working from 1990 to 1994, in my considered view, compensation Rs. 50,000/- would be proper. Accordingly I hold and record my finding on Point No.2.

7. In the result, Award is passed as under:-

- (1) Action of the management of Central Farm Machinery Trainging and Test Institute, Budni in terminating the services of Shri Ram Singh, s/o Surajpal is illegal.
- (2) IInd party is directed to pay compensation Rs. 50,000 to workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of Award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2013

कांआ 72.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेट्रल फार्म

मशीनरी ट्रेनिंग एंड टेस्टिंग इंस्टिट्यूट, बुदनी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 156/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं एल-42012/57/1996-आई आर (डी यू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2013

S.O. 72.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 156/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Farm Machinery Training and Testing Institute Budni and their workmen, received by the Central Government on 23-12-2013.

[No. L-42012/57/1996-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/156/97

PRESIDING OFFICER: SHRI R.B. PATLE

Smt. Savithri Bai,
W/o Late Phoolchand,
Behind Rly. Station,
Godi Mohalla,
Budni, Distt. Sehore (MP)

...Workman

Versus

The Director,
Central Farm Machinery Training
and Testing Institute, Tractor Nagar,
PO Budni, Distt. Sehore (MP)

...Management

AWARD

(Passed on this 2nd day of August, 2013)

As per letter dated 30-5-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/57/96-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Central Farm Machinery Training and Test Institute, Budni in terminating the services of Smt. Savithri Bai is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed Statement of claim at

Page 5. The case of Ist party workman is that she was employed by the IInd party on daily wage casual labour in 1977. Since her initial engagement, he was continuously working with the IInd party till 1994. That she had worked for 240 days during each of the calendar year and even 12 months preceding her retrenchment from service. Though the workman continuous rendered service, she was not regularized, permanent status was not given to him with ulterior motive. The management of IInd party adopted pick and choose policy. That the management had regularized services of 24 employees out of which three were over aged namely Shri Gulab, Shivilal and Narmada Prasad. Their services were regularized. That IInd party deliberately discontinued his services to accommodate those workman. Discontinuation of workman from service is illegal. Provisions of Section 25-F, G & H of I.D. Act were not complied. On such grounds, workman prays for reinstatement with consequential benefits.

3. IInd party management even after receiving notice failed to appear. IInd party was proceeded exparte as per order dated 15-6-07.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of Central Farm Machinery Training and Test Institute, Budni in terminating the services of Smt. Savithri Bai is legal? | In Negative. |
| (ii) If not, what relief the workman is entitled to? | As per final order. |

REASONS

5. Ist party workman is challenging termination of services. The workman has filed affidavit of his evidence. The workman has stated that she was engaged by IInd party on daily wages in 1977 after holding interview. That she worked for more than 240 days during each of the year 1977 to 1994. Her services were not regularized as per the Regularisation Scheme for casual labours of Govt. of India. That other overaged employees Gulab, Shivilal and Narmada Prasad and junior employees Hiralal, Ashok Kumar and Suresh were regularized from July 1994. The services of Ist party workman were illegally terminated. The evidence of workman remained unchallenged. IInd party has not participated in the reference proceeding. IInd party is proceeded exparte. Considering unchallenged evidence of workman, I donot find reason to discard his evidence. From evidence on record, it is established that the services of workman are terminated in violation of Section 25-F of I.D. Act as such illegal. For above reasons, I record my finding in Point No. 1 in Negative.

6. Point No. 2 - question arises as to what relief the workman is entitled? Whether the workman is entitled for

reinstatement with back wages? The unchallenged evidence of workman shows he is out of employment from 1994 for about 19 years. Ist party workman was working as daily wage employee. Her reinstatement would not be justified. Considering the period of his working from 1977 to 1994, in my considered view, compensation Rs. One Lakh would be proper. Accordingly I hold and record my finding on Point No. 2.

7. In the result, Award is passed as under:—

- (1) Action of the management of Central Farm Machinery Training and Test Institute, Budni in terminating the services of Smt. Savithri Bai is illegal.
- (2) IInd party is directed to pay compensation Rs. 1 Lakh to workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of Award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 73.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकाम (र.इ.) प्रोजेक्ट नागपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (171/1996) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2013 को प्राप्त हुआ था।

[सं० एल-40012/214/1994 - आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 73.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. (171/1996) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of Telecom (RE) Project, Nagpur and their workmen, received by the Central Government on 23/12/2013.

[No. L-40012/214/1994-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/171/96

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Prabhakar,
Shyamraoji Belkhade,

Gandhi Ward,
Pampurna,
Distt. Chhindwara (MP).

Shri Vishwishwar,
S/o Shri Pandrinath Dhomne,
r/o Gandhi Ward,
Pampurna,
Distt. Chhindwara.

...Workmen

Versus

Chief General Manager,
Telecom (RE) Project,
66, Bajaj Nagar,
Nagar (MS)

...Management

AWARD

(Passed on this 20th day of September, 2013)

1. As per letter dated 30-8-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/214/94-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Chief General Manager, Telecom (RE) Project, in stopping S/Shri Prabhakar, S/o Shri Shyamraoji Belkhade and Vishwishwar S/o Shri Pandrinath Dhomne, casual labour from their duty is justified? If not, to what relief the workmen are entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 8/1 to 8/2. It is case of Ist party that he was working as casual mazdoor in Railway. He had continuously worked for more than 240 days prior to date of his termination. He is covered as workman under Section 25-B of I.D. Act. His services were terminated without paying retrenchment compensation. It amounts to illegal retrenchment. On such grounds, workman prays for his reinstatement with consequential benefits. It needs to be noted that Statement of claim is not bearing signature of workman though its copy is received by IInd party.

3. IInd party filed Written Statement at Page 10/1 to 10/2. Claim of Ist Party is opposed. IInd party submits that applicant was never engaged against any post. He was engaged as per need and exigencies of project of the department on daily rated basis. He was not continuously engaged for the work. That stopping service of workman does not amount to retrenchment as he was not in regular service of IInd party though it is not necessary to comply mandatory provisions in relation to retrenchment compensation. IInd party being model employer paid Rs. 1609 on 13-11-90 Rs. 536 to the workman as notice pay.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the action of the management of Chief General Manager, Telecom (RE) Project, in stopping S/Shri Prabhakar, S/o Shri Shyamraoji Belkhade and Vishwishwar S/o Shri Pandrinath Dhomne, casual labour from their duty is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to? | Relief prayed by workmen are rejected. |

REASONS

5. Though workmen are challenging termination of their services by IInd party, statement of claim is filed without their signature, workman failed to adduce evidence to substantiate their claim. The evidence of workman were closed on 18-10-2010. Management filed affidavit of its witness Shri D.S. Thakur covering contentions of IInd party. The management's witness has stated that workman did not continuously worked for 240 days. They were engaged as per exigencies of work. After completion of work, the services of the employees. The evidence of management's witness remained unchallenged. The Ist party workman failed to cross-examine witness of the management. I do not find any reason to discard evidence of management's witness. The workman failed to adduce evidence about illegality of termination of their services therefore I record my finding on Point No. 1 in Affirmative.

6. In the result, Award is passed as under:—

- (1) Action of the management of Chief General Manager, Telecom (RE) Project, in stopping S/Shri Prabhakar, S/o Shri Shyamraoji Belkhade and Vishwishwar S/o Shri Pandrinath Dhomne, casual labour from their duty is proper.
- (2) Relief prayed by workmen are rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

कांआ 74.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सब डिविजनल ऑफिसर, टेलीग्राफ्स, छिन्दवारा के प्रबंधन के संबंध में निर्योक्त औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या (223/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.12.2013 को प्राप्त हुआ था।

[सं एल-40012/36/1990-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 74.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award Ref. (223/1990) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Sub Divisional Officer, Telegraphs, Chhindwara and their workman, received by the Central Government on 23.12.2013.

[No.L-40012/36/1990-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/223/90

SHRI R.B. PATLE, Presiding Officer

Shri Man Singh Diwade,
S/o Shri Goi Singh Diwade,
R/o Umaria, Tehsil Multai,
Distt. Betul

.....Workman

Versus

Sub Divisional Officer,
Telegraphs, Chhindwara Division,
Chhindwara

.....Management

AWARD

(Passed on this 23rd day of September, 2013)

As per letter dated 20/30.11.90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/36/90-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Sub Divisional Officer (Telegraphs), Chhindwara under the control of Telecom Distt. Engineer (Chhindwara), 16, Civil Centre, Jabalpur (MP) in stopping from work to Shri Man Singh Diwade S/o Goi Singh Diwade w.e.f. 31.3.88 is justified and legal? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/3. Case of Ist party workman is that he was employed through Sub Divisional officer, Chhindwara as casual mazdoor on 15.11.86 to carry out departmental work *i.e.* digging pits, trenches, erecting poles and other work. That he was regularly working. He was given increment time to time. He was initially paid wages Rs. 10 per day. Wages were increased to Rs. 12 per day. He was paid arrears of Rs. 4505 in August 1988. He worked for more than 240 days from March 87 to Feb. 88 excluding holidays. The workman further submits that the management stopped him from work. As per record of management he did not worked in December 1986, January 1987 though he had completed 240 days continuous service till February 1988. Management illegally stopped him from work without compliance of legal requirements. On such grounds Ist party prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 7/2. IInd party opposed relief prayed by workman. It is denied that workman was engaged continuously. It is submitted that workman was intermittently engaged as casual employee as per the exigencies. He himself remained absent. That IInd party is not covered as industry under Section 2(j) of I.D. Act. On such grounds, IInd party prayed for rejection of the claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of Sub Divisional Officer (Telegraphs), Chhindwara under the control of Telecom Distt. Engineer (Chhindwara), 16, Civil Centre, Jabalpur (MP) in stopping from work to Shri Man Singh Diwade S/o Goi Singh Diwade w.e.f. 31.3.88 is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to? | As per final order. |

REASONS

5. Workman is challenging legality of his termination from service *i.e.* in violation of Section 25 of I.D. Act. That he had completed 240 days continuous service. Management denied above contentions. Workman filed affidavit of his evidence covering his contentions in Statement of Claim that he had worked for more than 240 days from March 87 to February 88. In his cross-examination, evidence of workman that he had completed 240 days during above period is not challenged. In his cross-examination, workman says he was engaged on muster roll as casual labour, his work was to lay new lines. He has complained to SDO in writing. The copy is not produced on record. From evidence of workman, it remains unchallenged that he had completed 240 days continuous service. The evidence of management's witness Shri G.N. Agarwal, Kishore Kumar Agarwal in denial of the same. However both of the witnesses are not made available for cross-examination. Therefore their evidence cannot be considered. The services of workman are terminated in violation of Section 25-F of I.D. Act. Therefore I record my finding on Point No. 1 in Negative.

6. As to point No. 2, in view my finding in Point No. 1, termination of service of workman is illegal, question arises as to what relief the workman is entitled to. Learned counsel for workman Shri Ashok Srivastava relies on ratio held in case of

- "(1) Executive engineer K.P.C. Bidar and another versus Zulfegar Ali reported in 2012 LAB, I.C. 1987.

- (2) State Bank of India versus Central Government Industrial Tribunal-cum-Labour Court and another reported in 2013-1-MPLJ-380.

I have carefully gone through ratio held in those cases. The facts of present case are not comparable as workman had hardly worked for one year with the IInd party. He was not sponsored through Employment Exchange. Recruitment process were not followed. Therefore the workman is out of employment since 1988. For above reasons, reinstatement of workman with back wages would not be appropriate. Considering facts of case, compensation of Rs. 60,000 would be proper. Accordingly I record my finding in Point No. 2.

7. In the result, Award is passed as under:—

- (1) Action of the management of Sub Divisional Officer (Telegraphs), Chhindwara under the control of Telecom Distt. Engineer (Chhindwara), 16, Civil Centre, Jabalpur (MP) in stopping from work to Shri Man Singh Diwade S/o Goi Singh Diwade w.e.f. 31.3.88 is illegal.
- (2) IInd party management is directed to pay compensation Rs. 60,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of Award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 75.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 92/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-41012/147/2003-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 75.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 92/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Uttar Railway and their workman, received by the Central Government on 24.12.2013.

[No. L-41012/147/2003-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

DR. MANJU NIGAL, Presiding Officer

I.D. No. 92/2003

Ref. No. L-41012/147/2003-IR(B-I) dated: 12.09.2003

BETWEEN

The Divisional Organization Secretary
Uttar Railway Karmchari Union
C/o Sh. Virendera Kumar
Ticket No. 500, S/o Ram Swaroop
R/o 49, Tilak Nagar
Lucknow-226 001
(Espousing cause of Shri Virendera Kumar)

AND

1. The Divisional Personnel Officer
Northern Railway, Hazratganj
Lucknow
2. The Coaching Depot Officer
Northern Railway, Charbagh
Lucknow-226 001

AWARD

1. By order No. L-41012/147/2003-IR(B-1) dated: 12.09.2003 and its subsequent corrigendum dated 23.02.2007, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Divisional Organization Secretary, Uttar Railway Karmchari Union, C/o Sh. Virendera Kumar, Ticket No. 500, S/o Shri Ram Swaroop, R/o 49, Tilak Nagar, Lucknow and the Divisional Personnel Officer, Northern Railway, Hazratganj, Lucknow & the Coaching Depot Officer, Northern Railway, Charbagh, Lucknow for adjudication.

2. The reference under adjudication is:

"Kya Prabandhan, Uttar Railway, Charbagh, Lucknow Dwara Karmkaar Shri Virendra Kumar putra Shri Ram Swaroop 'Safaiwala' ko 26.12.1994 se Naukari se nikaal diya jana nayayochit evam Nayaysangat hai? Yadi nahi to karmkaar kis anutosh ko pane ka adhikaari hai?"

3. The case of the workman, Virendra Kumar, in brief, is that he was appointed as safaiwala on 01.06.1987 and was transferred from Varanasi to Lucknow where he fell ill for a week and could not attend his duties in the last week of February, 1990 for which he was issued a minor penalty charge sheet and was imposed punishment for stoppage of one set of pass and three set of PTOs vide order dated

17.09.90. It is submitted by the workman that he again fell ill and could not join the duties for 15 days in January, 1993. It is also submitted by the workman that during his illness he was under observation of a private medical officer and on getting fit he reached the office of the opposite party to report for the duty with medical certificate to his Incharge; but he was not allowed to join the duties and was informed that his services were terminated *w.e.f.* 01-07-1993. It has been alleged by the workman that the management terminated his services without following the D&AR inquiry which was mandatory before terminating the services of a regular employee; and also that termination of his services are violative of the provisions contained in the Section 25 F of the I.D. Act, 1947 as he was a regular employee and worked continuously for more than six years with the opposite party. Accordingly, the workman has prayed that his termination *w.e.f.* 26.12.1994 be held unjustified and he be reinstated with full back wages.

4. The management has denied the claim of the workman by filing its written statement; wherein it has submitted that the workman had been appointed in railways on compassionate grounds and became unauthorized absent *w.e.f.* 19.03.1991 without any information to the railway; and did not turn up to join the duties in spite of several letters and notices, which led to issuance of charge sheet *vide* dated 03.03.1993 under D&A Rules, 1968. It is submitted by the management that the workman never participated in the inquiry conducted by the Inquiry Officer, though notice were issued from railways administration from time to time. The management has contended the order of removal is legal and justified and passed after holding an inquiry and consideration of inquiry report. Accordingly, the management has prayed that the claim of the workman be rejected without any relief to him.

5. The workman has filed rejoinder; wherein he has specifically stated that he had never been informed of issuance of major penalty charge sheet or holding of any inquiry against him or passing of removal order by the management; however he was orally informed by his incharge that his services have been terminated.

6. The parties have filed documentary evidence in support of their respective claim. The workman examined himself whereas the management has examined the Inquiry Officer, Shri Raja Nath in support of their stand. The parties cross-examined the witnesses of each other apart from forwarding oral arguments, management got its witness cross-examined; whereas the workman union's witness, the Divisional Secretary, during the cross-examination was directed to file the list of witnesses whom he wants to get examined *vide* order dated 17.06.2003; but he failed to do so. The workman union kept absenting itself since 26.05.2011 and did not bother to forward its argument; accordingly, keeping in view long pendency of the case since 2001, heard arguments of the representative of the management and reserved the file for award.

7. Heard representatives of the management and scanned entire evidence on record.

8. The authorized representative of the workman has argued that the management of the Railways did not allow the workman to join when he recovered from illness and terminated his services by holding an ex-parte inquiry against him of which he had not been intimated at all. He has also argued that the punishment imposed by the management is harsh and disproportionate to the alleged misconduct.

9. In rebuttal, the management representative has contended that the workman did not turn up for long to join his services accordingly; disciplinary action has been initiated against him. It is also contended that the workman did not participate in the inquiry proceeding in spite of notices were issued from railway administration from time to time.

10. I have given my thoughtful consideration to the rival submissions made by the parties.

11. The workman has come up with the case that on recovery from illness he was not allowed to join the duties; and was verbally informed about his termination *w.e.f.* 26.12.1994. It is also the case of the workman that he was never informed of holding of any inquiry against him as he was never furnished any charge sheet or any notice to the effect was ever served upon him. In cross-examination he stated that he did not respond due to non-receipt of any notice.

12. Per contra, the management has come up with the case that the workman remained absent *w.e.f.* 19.03.1991 without any information accordingly, charge sheet, SF-5 was issued on 03.03.93. It is stated by the Inquiry Officer that a notice was issued to the workman and also a copy was pasted on the notice board, to appear before the inquiry; but the workman did not appear. He also stated that PRO, Northern Railway, Lucknow was asked to publish notice through news paper. He also stated that the workman was appointed on 25.06.87 on compassionate grounds.

13. The schedule of reference, referred to this Tribunal for adjudication, pertains to validity of the action of the Northern Railway in terminating the services of the workman *w.e.f.* 26.12.1994 and this regard the onus was on the management to prove that the procedure adopted by it for inflicting the punishment upon the workman was fair and just. The management in order to prove the validity of its action, has come up with the case that the workman had been issued charge sheet but the neither submitted any explanation to the charge sheet nor appeared before the inquiry in spite of the notice. The workman has contended that he never received any charge sheet or any notice to participate the proceedings.

It is not the case of the management that the workman was a casual or temporary worker, instead it is admitted by

the management that the workman was a regular employee being appointed on compassionate grounds, therefore, as per Rules, it was incumbent upon the management to initiate disciplinary action against the workman before passing any penalty against him; and also it was expected from the management that during such an inquiry the workman is afforded all reasonable opportunity to defend himself as provided in the principles of natural justice.

14. In present case, the workman had been issued a major penalty charge sheet for alleged unauthorized absence. The management has pleaded that the workman did not turn up in spite of several notices; but could not corroborate its pleading with cogent evidence as it neither produced any receiving of the charge sheet by the workman nor any service upon the workman regarding initiation of the inquiry or its dates etc. The management witness has stated that the PRO, Northern Railway was required to publish the notice in the news paper but in the cross-examination, he has stated that there is no information in the file in this regard that the notice was published in the news paper through PRO or not. Further, in the inquiry report, paper No. 22/8 it is mentioned as under:

"Uparukt karmchari ko dinank 03.3.93 ko SF-5 jaari kiya gaya, parantu unke ghar ka pata na to CDO Office main na to mandal karyalaya main uplabdh ho saka. Atah uparukt karmachaari ko na to SF-5 bheja ja saka na to uski pavati hi prapt ki jaa saki.

Uparukt karmchaari ko DAR inquiry main shamil hone ke liye pratek soochana pat par notice dinank 17.4.93, 4.5.93 evam 22.5.93 ko laga kar soochit kiya gaya jo ki kramank 3 se 7 par sanlagn hai. Prantu aaj tak es karmchari ke bare main CDO office main na to soochana prapt hui, na to vah swaim upasthit hua. Notice ki prati PRO/LKO/NR ko bhi is ashya se bheji ki iska prachar evam prasar, akhbaar ya anya madhyam se bhi kar liya jae jo ki kramank 4 par sanlagn hai."

From perusal of above findings of the Inquiry Officer, it is evident that the notice was posted on the notice board on 17.4.93, 4.5.93 and 22.5.93 and has also written the PRO to publish the same in news paper; but the copy of above notices dated 17.4.93, 4.5.93 and 22.5.93 or letter of to PRO, NR do not find reference on the file, which weakens the case of the management. Thus, there is no documentary evidence on record to support the version of the management that it made efforts to inform the workman about the initiation of the inquiry or of the dates of hearing.

15. A careful scrutiny of the charge sheet dated 03.03.93 shows that the Article-1 to the standard form of charge sheet bears charge for absence from 19.03.91 and further the Article-2 bears charge for absence from 28.11.88 there is no charge regarding habitual absence. In the instant case the workman had allegedly been unauthorisedly absent

since 28.1.88 and the inquiry officer has relied on the office report etc. The management has not filed copy of inquiry proceedings to substantiate as to whether any witness or documentary evidence was produced before the inquiry officer or not. The management also failed to show that it make best efforts to make effective service upon the workman. The plea of the management regarding non-availability of address of the workman does not seem to be reasonable as the workman was a regular employee and service book is being maintained in respect of a regular employee which has all record in respect of the employee including his permanent and temporary address.

16. In view of discussions made hereinabove, the inquiry proceedings held by the management deserves to be vitiated and the impugned order terminating the services of the workman *w.e.f* 26.12.1994 is liable to be declared to be illegal.

17. Hon'ble Apex Court in Chairman-cum-Managing Director, Coal India Limited and another vs. Mukul Kumar Choudhuri and others (2010) 2 SCC (L&S) 499 directed for reinstatement of the delinquent for the proved charges of unauthorized absence for a period of more than six months, being the punishment of removal unduly harsh and grossly in excess to the allegations; but withheld the back wage by the way of punishment for proved misconduct of unauthorized absence. The Court observed as under:

"In a case like the present one where the misconduct of the delinquent was unauthorized absence from duty for six months but upon being charged of such misconduct, he fairly admitted his guilt and explained the reasons for his absence by stating that he did not have any intention nor desired to disobey the order of higher authority or violate any of the Company's rules and regulation but the reason was purely personal and beyond his control and, as a matter of fact, he sent his resignation which was not accepted, the order of removal cannot be held to be justified, since in our judgment, no reasonable employer would have imposed extreme punishment of removal in like circumstances. The punishment is not only unduly harsh but grossly in excess to the allegations."

In the instant case the workman had allegedly been unauthorizedly absent since 28.1.88 till the date of issuance of the charge sheet which has been denied by the workman. No evidence of the service of notice upon the employees has been produced; rather it has come in the evidence that service of notice could not be affected upon the workman due to non-availability of address. Under these circumstances, the version of the Railways that "the workman did not turn up in spite of several notices" appears to be totally false and devoid of any substance. The management failed to prove that the inquiry was not

ex-parte; and also that the inquiry had been conducted in accordance with the principles of natural justice.

18. Therefore, under the facts and the circumstances of the case and considering the law, it comes out that the punishment, imposed by the management upon the workman for alleged unauthorized absence, as there is neither any allegation, in the charge sheet, that the workman was habitual absentee nor there is any evidence on the record to the effect that the workman was in habit of absenting himself as of different occasions. Therefore, in my opinion, the punishment order is not only unduly harsh but grossly in excess to the allegations, therefore, the impugned order of removal dated 26.12.1994 is set aside; and the management is directed to reinstate the workman, Virendera Kumar, with all consequential benefits, except the back wages from the date of removal until reinstatement by the way of punishment for his unauthorized absence.

19. award as above.

Lucknow,
29th November, 2013

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

कांआ 76.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 147/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2013 को प्राप्त हुआ था।

[सं एल-41011/1/1993-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 76.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 147/1993) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway, Jabalpur and their workmen, received by the Central Government on 23/12/2013.

[No. L-41011/1/1993-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/147/93

SHRI R.B. PATLE, Presiding Officer

The Divisional Secretary,
National Railway Mazdoor Union,
Railway Station Building,
Jabalpur

...Workman/Union

Versus

Divisional Railway Manager,
Central Railway,
Jabalpur.

...Management

AWARD

(Passed on this 18th day of November 2013)

1. As per letter dated 29-3-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41011/1/93-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Central Railway, Jabalpur in terminating the services of 7 employees named below working in non-statutory subsidized recognised canteen at New Katni Junction Diesel Shed instead of regularising their services as per Supreme Court order dated 27-2-90 *w.e.f.* 1-4-90 is justified? If not, what relief the concerned workmen are entitled to? (1) Shri Karan Jaiswal, (2) Shri Ayodhya Prasad, (3) Shri Dayaram, (4) Shri Girdhari Bahadur, (5) Shri Ganesh Rao, (6) Shri Ramjanam & (7) Shri Argun Kori"

2. After receiving reference, notices were issued to the parties. Ist party union submitted Statement of Claim at Page 2/1 to 2/9. Case of Ist party Union is that dispute concerning the termination of Service of 7 Casual Labours by the Staff Canteen Management, Diesel Shed, New Katni Junction is raised by the union. That Karan Jaiswal and 6 others as shown in Annexure A-I were working as Casual Labour/substitute in the Staff canteen at Diesel Shed, New Katni Junction. These employees were working on regular basis without any break from 22-4-1979 onwards and recovery towards PF etc. were also being made from their wages by the Canteen Management. That Hon'ble Supreme Court in its judgment in Case No. 2275-86 of 1982 decided on 27-2-90 in the matter of M.M.R. Khan and others versus Union of India and others held that the workers engaged in statutory candidates and as well as engaged in non-statutory recognized canteens in the Railway establishments, are railway employees and they are entitled to be treated as such. That Railway Board has already treated the employees of all statutory canteens and 11 Delhi based non-statutory recognized canteens as Railway employees *w.e.f.* 22-10-1980. The employees of other non-statutory recognized canteens will however be treated as Railway employees from 1-4-1990. That Ist party workman were engaged by Managing Committee. They are entitled to be treated as Railway Servant in accordance with above judgment. The Board letters dated 18-5-90 also relied for claiming the benefit.

3. That Railway Board *vide* its letter dated 18-5-90 directed Railway Administration that consequent upon the said judgment of the Supreme Court, the Ministry of Railways have decided that the employees of subsidized (Recognised) non-statutory canteens should be treated as railway employees *w.e.f.* 1-4-90. That Railway Administration in compliance with the instructions issued by the Railway Board extended the benefit of permanent employment to all the employees of non-statutory canteens functioning on Jabalpur Division except for the above said 7 Casual Labours whose services were terminated. By Chairman, Railway Canteen, Diesel Shed, New Katni Junction *vide* letter dated 29-6-92. That these employees were in employment of the canteen management from 24-7-79. They were taken over by Railway Administration *w.e.f.* 1-4-90. That those employees were entitled for regular scale of pay after completion of 120 days continuous service on par with other employees. However said benefit was not extended to them by canteen management. They were paid wages on daily rate basis.

4. The Ist party workman submits that they are not given benefit of the judgment by the Supreme Court and treated as regular employees from 1-4-90. The Railway Board while issuing instructions to all concerned also not discriminated between permanent and temporary employees exist those 7 retrenched employees illegally. That they were not granted benefit of Provident Fund. Ist party workman has referred to various judgments, canteen employees were treated as regular employees of the Railway. Ist party has pleaded that their services were terminated in violation of Section 25-F of I.D. Act, no retrenchment compensation was paid, notice of termination was not served on them. On such ground, Ist party is praying for reinstatement of all 7 employees with consequential benefits.

5. IInd party No. 1 filed Written Statement at Page 3/1 to 3/3. The IInd party denied material contentions of Ist party Union. IInd party submits that those 7 employees were not engaged as casual labour by Railway Administration. The judgment of Hon'ble Apex Court is not applicable in present case. That the employees may be employee of the Staff canteen committee but no permission was obtained from Committee of Railway therefore there is no question of treating them as casual labour. IInd party submits that those employees were not granted any privilege by Railway authorities like passes, leave, payment of holiday, medical facilities, Uniforms etc. the judgment of Apex Court relied by Ist party is not applicable.

6. Those employees were not engaged by Railway Administration. That employees have no right to get any type of facilities provided by Railway to casual labours on completion of 120 days services. That those employees are not entitled to states of regular employees as they were not engaged by the Railway. The service of those employee

was governed by the terms and conditions applicable to the employees of Railway Staff Canteen Committee. The claim of all employees is denied outright. IInd party prays for rejection of claim.

7. Separate Written Statement is filed by IInd party No. 3 at Page 4/1 to 4/3. Claim of Ist party is opposed on identical grounds pleaded by IInd party No. 1, 2. It is further pleaded that the Railway Staff Canteen is not industry under section 2(j) of I.D. Act. There are rules for constitution of the Committee.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Central Railway, Jabalpur in terminating the services of 7 employees? (1) Shri Karan Jaiswal, (2) Shri Ayodhya Prasad, (3) Shri Dayaram, (4) Shri Girdhari Bahadur, (5) Shri Ganesh Rao, (6) Shri Ramjanam & (7) Shri Argun Kori working in non-statutory subsidized recognised canteen at New Katni Junction Diesel Shed instead of regularising their services as per Supreme Court order dated 27-2-90 <i>w.e.f.</i> 1-4-90 is justified?	Is Affirmative
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(ii) If not, what relief the workman is entitled to?	Relief prayed by workmen are rejected.
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REASONS

9. Ist party Union is challenging termination of services of 7 casual employee working in non-statutory subsidized canteen at New Katni Junction. The Ist party union also alleges that as per judgment by Hon'ble Supreme Court, those employees should be treated as employees of the Railway Administration from 1-4-90. IInd party denies all above contentions. Next it is contended by Union that services of those employees are terminated by the Canteen Manager without issuing notice in violation of Section 25-F of I.D. Act. The Canteen Manager is not impleaded as party to the reference. The affidavit of evidence of Ayodhya Prasad, Dayaram Singh, Arjun Kori, Girdhari Bahadur, Ramjanam, & Karan Jaiswal are filed. In their affidavit, those workmen have stated their date of joining as casual labour in the canteen from 1-1-1982, 1-10-82, 1-5-86, 1-1-83, 1-4-86, 1-1-82 respectively. That they were continuously working in the canteen. Their services were terminated without notice from 21-6-92. They were not paid retrenchment compensation, they have completed more than 240 days continuous service every calendar year. Ayodhya Prasad

in his cross-examination says the canteen was run by society. Appointment letter was not issued to him. He was member of the Union. He was paying subscription Rs. 12/-, receipt was received by him. Copy of judgment is not produced. The termination order is produced at Exhibit D-1. In his cross-examination says he was working in canteen. His services were terminated by Mr. Sharma. Canteen was run by society. He did not see the documents of the society. Arjun Kori in his cross-examination also says he was working in Railway canteen. Appointment letter was not given to him. The canteen was run by society. Similar evidence is deposed in their cross-examination by Girdhari Bahadur, Ramjanam, & Karan Jaiswal. The evidence of all those employees that they were working in the canteen run by society is not shattered. Their evidence about termination of services by canteen Manager from 29-6-92 is also not challenged. As stated above, Canteen Manager is not impleaded as party.

10. Learned counsel for Ist party Union submitted copy of judgment in case of M.M.R. Khan and others versus Union of India reported in AIR-1990-SC-937. Their Lordship held that employees in statutory and non-statutory recognized Railway canteens are entitled to be treated as Railway employees but not employees in non-statutory, non-recognised canteens. Their Lordship further held the employees in the statutory canteens of the Railways will have to be treated as Railway servants. The relationship of employer and employee stands created between the Railway Administration and the canteen employees from the very inception. In Para-30 of the judgment, their Lordship held the workers of the non-statutory, non-recognised Railway canteen are not entitled to claim the status of Railway servants.

11. That Ist party Union has not produced any document that the canteen run by society was recognized by Railway Administration. Their Lordship observed the difference between non-statutory recognized and non-recognised canteen in that these candidates are not supported with approval of Railway Board as required under Para 2831 of Railway Establishment Manual. Though they are started in the premises belonging to the Railways they are so started with the permission of the local officers. They are not required to be managed either as per the provisions of the Railway Establishment Manual or the Administrative Instructions. There is no obligation on the Railway Administration to provide them with any facilities including the furniture, utensils, electricity and water. These canteens are further not entitled to nor are they given any subsidies or loans. They are run by private contractors and there is no continuity either of the contractors or the workers engaged by them. Very often than not the workers go out with the contractors. There is further no obligation cast even on the local offices to supervise the working of these canteens. No rule whatsoever are applicable to the recruitment of the workers and their service conditions.

The canteens are run more or less on adhoc basis, the Railway Administration having no control on their working neither is there a record of these canteens or of the contractors who run them who keep on changing much less of the workers engaged in these canteens.

12. In view of the above observations, the evidence of witness Canteen Manager Narendra Kumar Bani needs to be considered. In his affidavit of evidence, Narendra Bani says he is working as Manager in the Staff canteen from 1-7-78. 14 employees were engaged in said canteen as casual labours. Those casual labours are employed by Staff Canteen Committee. Those employees are not concerned with Railway Administration. The employees had admitted that they were casual labours and continued to work as such. In his cross-examination, he says that he was appointed as Canteen Manager by the Managing Committee of the canteen. The appointment letter was not brought by him. 14 employees were appointed by the Managing Committee. He has no power to appoint such employees. Rather he has power to terminate them. The Secretary is authorized to terminate the casual employees. The Committee maintains accounts of canteen, the accounts are audited. The evidence on record doesnot show that the canteen was recognized by Railway Administration at any time therefore those 7 casual employees are not covered in the above cited judgment. Railway has not appointed those casual employees nor terminated their services, the Canteen Manager is not impleaded as party. To be precise all those 7 employees are not entitled to benefit of judgment in Case of M.M.R. Khan and others versus Union of India reported in AIR-1990-SC-937 as canteen was not recognized by Railway Administration. For above reasons, I record my finding in Point No. 1 in Affirmative.

13. In the result, award is passed as under:—

- (1) Action of the Management of Central Railway, Jabalpur in terminating the services of 7 employees (1) Shri Karan Jaiswal, (2) Shri Ayodhya Prasad, (3) Shri Dayaram, (4) Shri Girdhari Bahadur, (5) Shri Ganesh Rao, (6) Shri Ramjanam & (7) Shri Argun Kori (working in non-statutory subsidized) recognised canteen at New Katni Junction Diesel Shed instead of regularising their services as per Supreme Court order dated 27-2-90 *w.e.f.* 1-4-90 is proper.
- (2) Relief prayed by workmen are rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 77.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल, भोपाल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 6/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-40011/9/1993-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 77.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Chief Post Master General, Bhopal, and their workmen, received by the Central Government on 24.12.2013.

[No. L-40011/9/1993-IR (DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/6/95

SHRI R.B. PATLE, Presiding Officer

The Circle Secretary,
L1 India RMS Avam Motor Dak Sewa Sangh,
132, Mahatma Gandhi Marg,
Ratlam ...Workman/Union

Versus

The Chief Post Master General,
M.P. Circle,
Bhopal ...Management

AWARD

(Passed on this 23rd day of July 2013)

1. As per letter dated 29.12.94 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40011/9/93-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Chief Post Master General MP Circle Bhopal for not giving temporary status to the workers Annexed in the list (50 workers) is justified or not? If not, to what relief the workmen are entitled?"

2. After receiving reference, notices were issued to the parties. Ist party Union filed Statement of claim at Page 3/1 to 3/3. The case of Ist party Union is that its members claiming temporary status with the management. Several requests made by the Union will get no result. Therefore they approached for reference of the dispute. That Chief

Post Master General had engaged number of workers in Railway Mail Services in various places. Most of the workers are working since 1982. It is submitted that those employees are entitled to temporary status as they have completed more than 240 days service during calendar year. That Director (Staff), Department of Post, Dak Bhawan was pleased to give temporary status to workers working as casual labour as on 29.11.89 who continued to be currently employed and have referred continuous service of atleast one year. Such casual workers engaged for 8 hours including 1/2 hours lunch time will be paid at daily rated basis of the minimum pay scale of Grade D employees. Such employees are to be paid DA, HRA, CCA with benefit of increments, leave etc. That it was decided that after having rendered continuous service, casual labours will be treated at par with Grade D employees for purpose of PF Contribution. Said decision was taken by department in compliance of directions of Hon'ble Supreme Court of India. The decision of department was circulated to all officers concerned of the Distt. as per memorandum dated 12.4.91. The officers working in various branches of RMS started to engage in the work to the workers for 8 hours but shown on record as 7 hours. It is also alleged that the workers were given job for 405 hours rendering the number of workers idle. The Union submits that the right of workers is violated showing artificial less hours of the workman. That the employee at 15 No. have completed 240 days service and they be accorded temporary status.

3. Written Statement of the IInd party is not seen on record. My predecessor passed award on 2.6.09 in death of the management and Union. Said award was challenged by Ist party union filing Writ Petition No. 1006/2009. The Writ petition was decided on 20.2.2003. Their Lordship observed that the Tribunal desires its jurisdiction from terms of reference and it is necessary to adjudicate the reference and to answer the reference one way or the other. From perusal of the award, it is apparent that the tribunal has failed to adjudicate the dispute referred to it. The award passed by my predecessor is quashed and directions are issued to adjudicate the dispute in view of the reference dated 29.12.1994.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Cheif Post Master General MP Circle Bhopal for not giving temporary status to the workers Annexed in the list (50 workers) is legal? In Negative

(ii) If so, to what relief the workman is entitled to? 19 workers are entitled to temporary status as per final order.

REASONS

5. Ist party union is claiming temporary status for 50 workers as per decision of the department as per circular dated 12.4.91. The said circular was issued in pursuance of the directions by Hon'ble Supreme Court. It is alleged that after said circular, though the employees were working for 8 hours but their work was shown as 7 hours. The workman were given job for 4-5 hours rendering the workers idle. IInd party not filed Written Statement in the matter. The Union has filed affidavit of several workers. Shri Rajiv Kumar Sharma filed affidavit of his evidence narrating the details about the employees were working for 8 hours including 1/2 hour lunch time. That they are entitled to temporary status and other benefits of PF, DA, HRA, CCA and circular dated 12.4.91 was issued. Said witnesses has also stated that temporary status was given to Shri Basar Kamal, Rambabu. Subsequently 13 employees were granted temporary status namely Shri A. Washid Khan, Batanlal, Mohd. Unis Khan, R.K. Sharma, P. Bhatnagar, Yubraj, Mahendra Singh, A.K. Gur, C.D. Mehra, Murarilal, R.K. Soni, Rajkumar and Shri Ranjan Singh. That names of 34 employees who were refused temporary status by IInd party. The said witness was cross-examined. The witness has re-affirmed that the workers were required to working 8 hours but working hours are shown as 7 hours. He has fully submitted his statement in affidavit. His evidence is not shattered on material aspects. The management filed affidavit of Shri P.L. Jha. 7 witness of management emphasized that temporary status was given to the employees who were working 8 hours per day and completed 240 days service in a year. The employees who did not worked as per said norms were not given temporary status. As per circular dated 12.4.91 in his cross-examination, management's witness says personally he doesnot know any of the employees. Attendance was marked in the registers and not in Kachha register. The temporary status was granted to employees working for 240 days in an year till 29.11.89 and working 8 hours in a days. Other workers were not granted temporary status. The witness of the management has stated that he had received information from the Head of Department. Those documents are not produced on record. The management's witness in his cross-examination says that Shri Basar Kamal and Rambabu were granted temporary status. After judgement by CAT, 13 employees were granted temporary status as per Annexure B, C produced on record. That 15 employees who were given temporary status, documents can be produced on record.

6. Affidavit of Union Shri Mahendra Singh is filed supporting the claim of Union. Said witness in his cross-examination says that he was granted temporary status. He was not consent with the relief prayed by Union but he was supporting the workers who were denied temporary status. He has referred to the order passed by CAT dated 3.4.97 and temporary status given to 13 employees. The

evidence of this witness has not been cross-examined. Mohd. Yunus Khan, Wahid Khan filed Identical affidavit supporting claim of the Union. In W.P.No. 15050/2005, Hon'ble High Court confirmed judgment and order dated 6.7.04 passed by CAT, Jabalpur in original application No. 599/2002. In para-6 of the judgment, his Lordship has reproduced para 3 (iii) of Annexure A/3. It provides that if part time casual labour has served for 480 days in a period of two years, he will be treated for purpose of recruitment to have completed one year of service as full time casual labour. Para-2 of clarificatory letter dated 17.5.89 is also reproduced at Page 4 of the judgment. Those Casual labourers who are engaged for a period of 8 hours a day should be described as full time casual labourers. Those casual labours who are engaged for a period less than 8 hours a day should be described as part time casual labourers. All other designations should be discontinued. The copy of Swamy's Establishment and Administration is produced on record relating to the part time, full time casual labours. The management's witness has not produced documents received by him from Head of Department. No evidence is produced about working hours of employees. Therefore I donot find reason to disbelieve evidence of witness examined by them. During course of argument, it is made clear that though reference was filed to give temporary status to 50 employees appointed from 80 to 87 15 employees were already given temporary status, 14 died, 2 employees were also granted temporary status. The claim in respect of 19 employees needs to be considered i.e. at Sl. No. 3, 11, 13, 16, 22, 23, 24, 25, 27, 38, 39, 40, 41, 42, 43, 44, 46, 47 & 48. All those employees are working since long period; those employees are working since long period 1982 to 1987. They are not granted temporary status only on the ground that they were not working for 8 hours. However the management has failed to produce the reports received from Head of Department. Therefore evidence of witnesses of Union needs to be accepted. Therefore I hold that those 19 employees worked for 240 days in an year, 8 hours every day. They are entitled for temporary status. The action of management denying temporary status as per circular dated 12.4.91 is illegal. For above reasons, I record my finding on Point No. 1 in Negative.

7. In view of my finding on Point No. 1, the action of the management is illegal, 19 employees are entitled to temporary status. Point No. 2 is answered accordingly.

8. In the result, award is passed as under:—

- (1) The action of the management of Chief Post Master General MP Circle Bhopal for not giving temporary status to the 19 employees is illegal.
- (2) IInd party management is directed to accord temporary status to employees at Sl. No. 3, 11, 13, 16, 22, 23, 24, 25, 27, 38, 39, 40, 41, 42, 43, 44, 46, 47 & 48 in list annexed with reference.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 78.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीएसएनएल, ऑफिस ऑफ जीएमटी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 22/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/61/2003-आईआर (डी.यू.)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 78.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of BSNL, Office of the GMT and their workmen, received by the Central Government on 24.12.2013.

[No. L-40012/61/2003-IR (DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/22/2004

SHRI R.B. PATLE, Presiding Officer

Shri Jagdish Prasad,
S/o Shri Mohanlal,
R/o Vill. Nishatpura West,
H.No. 29, Nariyal Kheda,
Near Police Chowki,
Bhopal (MP)

...Workman

Versus

The Divisional Engineer (Admn),
BSNL, Office of the GMT,
Bhopal (MP)

...Management

AWARD

(Passed on this 9th day of July 2013)

1. As per letter dated 16-2-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/61/2003-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Divisional Engineer (Admn) BSNL, Bhopal in terminating the

services of Shri Jagdish Prasad S/o Shri Mohanlal is justified? If not to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 6/1 to 6/5. It is case of Ist party workman that his services are terminated by IInd party in violation of Section 25-F of I.D. Act. He was initially appointed on 1-6-88 and he continued to work satisfactorily till 1999. He had worked for more than 240 days during each of the year. Without issuing any notice or holding enquiry, his services are terminated. Principles of Ist come last go was not followed, other junior employees are continued in service. His services are illegally terminated. he has submitted duty chart of employees. He is discriminated by the IInd party. He has lost his earning source after termination of his services. He prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 11/1 to 11/2. It is submitted that workman was never appointed by management of IInd party. The workman has not worked from 1-6-88 to 1999 as claimed by him. It is denied that services of workman are terminated in violation of Section 25-F. As workman was never appointed by management, provisions of said section are not attracted. It is submitted that appointments in establishment of IInd party is governed by rules. That services of Shri Ramsharan Malviya, Smt. Rama Devi Sharma, Smt. Sushila Devi, Smt. Usha Pancholi were regularized as they fulfilled conditions as per the scheme framed by management. The allegation of workman are baseless. The document relied by workman was not verified or certified by the officer of the management. That as per ratio held in different cases by Apex court temporary employees are not entitled for regularization. IInd party prayed for rejection of claim prayed by workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Divisional Engineer (Admn) BSNL, Bhopal in terminating the services of Shri Jagdish Prasad S/o Shri Mohanlal is legal?	In Negative
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(ii) If so, to what relief the workman is entitled to?	As per final order.
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REASONS

5. Workman filed affidavit of evidence covering most of the facts in his statement of claim. That he had completed 240 days during each of the calendar year. he was working from 1988 to 1999. He was not paid retrenchment compensation, no notice was issued to him. His junior

employees were regularized. Shri Ramsharan Malviya, Smt. Rama Devi Sharma, Smt. Sushila Devi, Smt. Usha Pancholi's services were regularized. He has also stated that he was paid wages in the name of Raju before termination of his services. In his cross-examination, workman says that he had not seen public duties for the post he was working. He had not received such notice. He does not know which kind of notice were published before regularizing service of the junior employees. He has not submitted application for appointment. His oral interview was taken, appointment letter was not issued. His first appointment was as MDF Selling incharge. He was appointed on 1-1-88. He had worked in MDF for 6-7 years. He worked for 240 days during each of the calendar year. His evidence about working 240 days in each of calendar year is confirmed in cross-examination. The evidence of workman on above point is not shattered. Management's witness A.K. Balpande tried to support the defence of management of IInd party that as per record available with BSNL, workman was not engaged by the management. The claim of workman for regularization is baseless. In his cross-examination, witness of the management says in Bhopal, he was working from 1987 to 1992. He had not seen workman working at Bhopal. While management's witness was working at Bhopal, he had seen Vinod Kumar, Anupam Shrivastava working in the office. That he had not seen record of casual employees since 1988 since record is not maintained. The order dated 15-12-2001 was issued by the office. The document Exhibit W-1 shows that workman was appointed as Maali from 1-6-88. Document Exhibit W-2 is his application submitted by workman shows that he was working on establishment of IInd party from 1-6-86 to 1990. He prayed for regularization of his service. Document Exhibit W-3 shows that since employees were regularized as per said order, namely Shri Ramsharan Malviya, Smt. Rama Devi Sharma, Smt. Sushila Devi, Smt. Usha Pancholi. Evidence of workman is corroborated.

6. Workman had submitted application for regularization of his service but it was not considered. The reply was given to his application. The management's witness has no knowledge about working of the workman. He had not seen the relevant record. Therefore the action of management terminating services of workman Jagdish Prasad, S/o Shri Mohanlal is illegal. Accordingly I record my finding on Point No. 1 in Negative.

7. Point No. 2—In view of finding on Point No. 1 that the services of workman are illegally terminated without compliance of Section 25-F of I.D. Act, his application for regularization was not considered, junior employees are regularized, question is what relief the workman is entitled. Workman is not regular employee, his services are illegally terminated violating Section 25-F of I.D. Act, Reinstatement with back wages is not appropriate. Reasonable compensation Rs. 75,000 will be appropriate considering the circumstances of the case. In addition to above, IInd

party shall pay one month's notice pay, retrenchment compensation for 150 days for 10 years service. For above reasons, I record my finding on Point No. 2 accordingly.

8. In the result, award is passed as under:—

- (1) The action of the management of Divisional Engineer (Admn) BSNL, Bhopal in terminating the services of Shri Jagdish Prasad S/o Shri Mohanlal is legal.
- (2) Management is directed to pay compensation Rs. 75,000 to the workman. In addition to above, IInd party shall pay one month's notice pay, retrenchment compensation for 150 days for 10 years service.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 79.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पालावन ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 59/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2013 को प्राप्त हुआ था।

[सं० एल-12012/22/2011-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 79.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 59/2011) of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Pallavan Gramin Bank and their workmen, received by the Central Government on 24/12/2013.

[No. L-12012/22/2011-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 20th November, 2013

PRESENT:

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 59/2011

(In the matter of the dispute of adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Pallavan Grama Bank and their workman)

BETWEEN:

Sri K. Duraisamy : 1st Party/Petitioner

AND

The Chairman : 2nd Party/Respondent
Pallavan Grama Bank
Head Office
No. 6, Yercaud Road
Salem-7

APPEARANCE:

For the 1st Party/Petitioner : M/s P.S. Ratnamani,
Union Advocates

For the 2nd Party/
Management : M/s L. Jayakumar &
Associates,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-12012/22/2011-IR(B-II) dated 20.06.2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Pallavan Grama Bank in dismissing Sri K. Duraisamy, Sweeper-cum-Messenger, Valathi Branch is legal and justified? To what relief the concerned workman is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 59/2011 and issued notice to both sides. Both sides have entered appearance through counsel and filed Claim and Counter Statement respectively. However, at the stage of evidence the Respondent has remained absent and has been set *ex parte*.

3. The averments in the Claim Statement in brief are these:

The petitioner was working as Sweeper-cum-Messenger with the Respondent Bank in its Valathi Branch. While in service the petitioner received a letter from the Respondent alleging certain misconducts on the part of the petitioner. It was alleged that one Elumalai had entrusted Ration Card and other documents alongwith an amount of Rs. 500 with the petitioner for opening an account in the bank, but the petitioner failed to make necessary arrangements for opening the account. It was also alleged that the petitioner had obtained Rs. 500 from one Velu

promising him to arrange loan and that when Velu requested the amount back, the petitioner threatened him. It was also alleged that the petitioner had received Rs. 750 from one Kesavan promising to arrange Bullock Cart Loan and when Kesavan demanded the amount back the petitioner refused. The Respondent had initially put the petitioner under suspension by order dated 29.12.2007. Then a Show Cause Notice was issued to the petitioner. The Show Cause Notice alleged that apart from the above misconducts the petitioner had exerted pressure on Velu and Kesavan to withdraw their complaints. A departmental enquiry was conducted against the petitioner. On the basis of the findings in the enquiry the petitioner was dismissed from service. Though an appeal was filed by the petitioner against the order of the Disciplinary Authority that also was dismissed. The petitioner did not commit any of the misconducts alleged against him. An order may be passed directing the Respondent to reinstate the petitioner in service with all attendant benefits.

4 The Respondent has filed Counter Statement contending as follows:

The petitioner was charge sheeted by the Respondent for acts of misappropriation in securing illegal gratification and for destroying evidence. The petitioner has unauthorizedly received Rs. 500 from a party for opening a SB Account and had misappropriated the amount. He had also received illegal gratification by way of cash from two customers of the Bank promising loans. The petitioner had also attempted to influence the above two customers by exerting pressure on them for withdrawing their complaints alleging illegal gratification. The petitioner has thus attempted to destroy evidence. Charges were framed against the petitioner for the above offences. An enquiry was conducted. On the basis of the report of the enquiry that all the three charges against the petitioner are proved, he was dismissed from service. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of the petitioner examined as WW1 and the documents marked as Exs. W1 to Ex.W15. The respondent having remained absent after examination of the petitioner, no oral or documentary evidence is available on the side of the Respondent.

6. The Points for consideration are:

- (i) Whether there is any justification in the action of the Respondent in dismissing the petitioner from its service?
- (ii) What is the relief if any, to which the petitioner is entitled?

The Points :

7. On going through the file of the departmental enquiry conducted by the Respondent, I find that it was

conducted in a fair and proper manner. The petitioner was represented in the enquiry by a co-worker. No argument has been advanced before me to the effect that the enquiry was not conducted fairly and properly. In fact even in the Claim Statement itself the petitioner has been referring to the enquiry file to justify his contention. During his arguments also the counsel for the petitioner has mainly been relying upon the material placed before the Enquiry Officer.

8. The petitioner has filed affidavit of examination reiterating his case in the Claim Petition. He was cross-examined by the counsel for the Respondent also. He has stated in his affidavit that the finding in the Disciplinary Proceedings is without any justification.

9. The proceedings against the petitioner was stated by the letter dated 29.11.2007 sent to him by the Head Office of the Bank. In this letter marked as Ex.W1, it is stated that the petitioner had committed irregularities while working as Sweeper-cum-Messenger in Valathi Branch of the Bank. Firstly it is alleged that he has received Rs. 500 from one Elumalai on 11.08.2007 alongwith opening forms, copy of ration card and his photograph for the purpose of opening a new Savings Bank Account with the Branch, but he had not remitted the amount to the Bank's books and the account was not opened in the name of Elumalai. It is alleged that when the wife of Elumalai called on the Branch on 13.08.2007 for getting the Pass Book he denied to have received the amount from her husband, but when the Inspector of Branches advised him to remit the disputed amount if he had actually received it, he had handed over the amount and got the same remitted to Cash Department. Secondly, it is stated that one Velu has preferred a complaint on 29.05.2007 alleging that the petitioner had obtained Rs. 500 from him promising enhanced crop loan limit but had not extended any help in securing the loan. It is further alleged that another complaint has been received from one Kesavan on 26.05.2007 alleging that he had obtained Rs. 750 from Kesavan promising to arrange a Bullock Cart Loan. Ex W2 is the reply given to the letter by the petitioner denying the allegations. However, he has admitted even in his reply letter that he has paid Rs. 500 alleged to have been received from Elumalai though according to him it was only to avoid an ugly situation and not because he had received the money. Ex W3 is the order of suspension on the petitioner. Ex.W4 is the Show Cause Notice issued to the petitioner asking him why disciplinary action should not be initiated against him for the irregularities allegedly conducted by him. The order of suspension seems to have been revoked and the petitioner is seen posted at another branch of the Respondent Bank by Ex.W5 order. Ex. W7 is the file regarding the enquiry conducted against the petitioner. For the purpose of enquiry, apart from the irregularities earlier referred to a charge that the petitioner had exerted pressure and influenced Kesavan and Velu from whom he had allegedly obtained illegal gratification

also is seen incorporated. The Enquiry Officer has found that all the charges framed against the petitioner are proved. The comments of the petitioner was called for in respect of the findings of the enquiry as seen from Ex. W9 and he had given his reply which is marked as Ex.W10. Ex. W11 is the order of the disciplinary authority proposing punishment. By Ex.W12 the punishment of removal from service was imposed on the petitioner.

10. In the enquiry proceedings Elumalai from whom the petitioner had allegedly received Rs. 500 and Velu and Kesavan from whom he had received Rs. 500 and Rs. 750 respectively were examined. The English translation of the deposition of these witnesses have been furnished to me for perusal. It could be seen on going through the evidence of Kesavan and Velu that these witnesses have retracted from their allegation allegedly made by them against the petitioner by way of written complaints. Velu has stated during his examination that he was a customer of the Respondent Bank for 15 years. He has stated that he had earlier availed Jewel Loan and Crop Loan from the bank. According to him he had applied for crop loan for conducting his daughter's marriage but the loan was not given and he was harassed for almost 25 days. He was disgusted on account of this and he had filed complaint against the petitioner. He has stated during his examination that he had not given any money to the petitioner at all. However, he admitted during his examination that the signature found in the complaint against the petitioner is that of his itself.

11. The evidence given by Kesavan also is in tune with the evidence given by Velu. He had stated that he had given a complaint against the petitioner, but it was because the Manager refused to give him further loan. He seems to have written a letter immediately after his complaint against the petitioner stating that he has not paid any money to the petitioner. He has stated during his examination that he was in an intoxicated state when he wrote the complaint.

12. In spite of the refusal of these two witnesses to support the Management the Enquiry Officer has entered a finding that the petitioner has accepted money from these two witnesses as stated in their complaints. According to the Enquiry Officer, the witnesses have retracted from their statements on account of the pressure exercised by the petitioner who was very much concerned about retaining his job with the Respondent Bank. As pointed out by the counsel for the petitioner there is no direct evidence at all to show that any pressure has been exercised upon these witnesses by the petitioner. Because these two witness have retracted from their version in the complaint allegedly given by them the enquiry officer has assumed that pressure was exercised by the petitioner.

13. It could be seen that the two complaints allegedly made by Velu and Kesavan are of an earlier date than the complaint that was given by Elumalai. However, no action seems to have been taken against the petitioner on the

basis of these complaints before the incident referring to Elumalai occurred in the Bank. The Respondent has not stated why the above complaints, though of earlier dates were kept in the cold storage. In the normal course the management who had taken action regarding the incident in respect of Elumalai immediately should have acted in such manner regarding the complaints said to have been given by Velu and Kesavan also. In such circumstances, there was no justification in the Enquiry Officer finding that pressure has been exercised by the petitioner upon these two witnesses. When the witnesses have categorically stated before the Enquiry Officer that they have not paid any amount to the petitioner there was no justification for the Enquiry Officer to find otherwise on the basis of the complaints said to have been given by them earlier. So the findings of the Enquiry Officer regarding the charges on the basis of the alleged complaints of Velu and Kesavan and the charge of exertion of pressure are without any justification.

14. Now what remains for consideration is the charge based on the allegation made by Elumalai that Rs. 500 has been entrusted alongwith other necessary documents with the petitioner for the purpose of opening an SB Account but it was not done and the petitioner has denied to have obtained the money from him at all. Elumalai has been examined as W2 in the enquiry proceedings. He has deposed that he had wanted to avail housing loan of Rs. 5000 on the basis of his LIC policy but the bank had stated that he should have an account to avail loan. When he went to the bank on 10.08.2007 he was asked to bring a photograph. Xerox copy of the ration card, surely and the money. On the next day which happened to be Saturday, he had gone to the Bank with all these. He was told that it was late on the day to open the Bank account. The petitioner had asked him to hand over all the documents and money to him and he had obliged. He had sent his wife to the Bank on 13.08.2007 to get the Pass Book. However, the petitioner stated to his wife that he did not receive money from Elumalai. His wife informed him about this and they together went to the bank again and met the petitioner. The petitioner insisted that he had not taken money from Elumalai. An Officer of the Bank opened the drawer of the petitioner and it was found to contain the photograph of Elumalai, Xerox copy of his ration card and also his application form. After this an account was opened in his name and a Pass Book was given to him. He stated that he does not know who paid the money for opening the account. he stated during his cross-examination that he was not aware that the money is to be paid at the counter and this is why he had paid it to be petitioner.

15. On a perusal of the evidence of Elumalai. I do not find any reason to discard his evidence that the petitioner had received Rs. 500 alongwith the documents for opening an account. It is very much clear from the evidence in the enquiry proceedings itself that the documents required for

opening an account by Elumalai were discovered from the drawer of the petitioner and it was after this the account was opened in the name of Elumalai. If all the documents were entrusted with the petitioner it is only natural that minimum amount required for opening the account also was also entrusted with the petitioner. There is admission by the petitioner that he himself had paid the money for opening the account. He has admitted in his affidavit itself that he had paid the money. If actually he had not received the amount it was not necessary for him to oblige the superior officer of the branch by paying the money to enable Elumalai to open the account. The circumstances certainly point out to the misconduct committed by the petitioner in this respect. The Enquiry Officer was perfectly justified in entering such a finding.

16. Now the question to be considered is whether the Respondent Bank is justified in imposing the grave punishment of dismissal from service on the petitioner. I have already found that Charges-2, 3 and 4 made against the petitioner in the enquiry proceedings are not established. There is no case for the Respondent that the petitioner has antecedents of such misconduct. The petitioner who has thought of denying receipt of the amount from Elumalai has paid the amount when he became aware of the consequences. When the nature of the offence and this conduct of the petitioner in paying the amount immediately is taken into account I feel that the Respondent was not justified in taking the drastic measure of dismissal of the petitioner from service. The proceedings have started as early as in November 2007. The petitioner was dismissed from service by order dated 23.10.2008. Five years have elapsed after the dismissal. The petitioner was without any employment and without any wages during this period. The denial of wages for the period itself will be sufficient punishment for the petitioner for the misconduct committed by him. The punishment of dismissal from service is not in proportion to the gravity of the offence committed. The petitioner is entitled to be reinstated in service.

17. Accordingly, the Respondent is directed to reinstate the petitioner in service within a month. The petitioner will not be entitled to wages for the period from the date of dismissal to the date of reinstatement. He will be entitled to continuity of service and all other benefits.

18. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th November, 2013)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the Ist Party/Petitioner : WW1, Sri M. Kalaiarasan
For the 2nd Party/Management : None

Documents Marked:**On the petitioner's side**

Ex.No.	Date	Description
Ex. W1	29.11.2007	Letter for the Chairman of the Bank
Ex. W2	20.12.2007	Petitioner's reply to the letter of the Chairman of the Bank
Ex. W3	29.12.2007	Letter of Suspension
Ex. W4	18.06.2008	Show Cause Notice
Ex. W5	09.07.2008	Revocation of suspension and transfer order
Ex. W6	12.07.2008	Reply to Show Cause Notice
Ex. W7	30.01.2009	Adjudication of the Enquiry Officer
Ex. W8	09.10.2009	Enquiry Report
Ex. W9	16.10.2009	Show Cause Notice
Ex. W10	02.11.2009	Reply to Show Cause Notice
Ex. W11	06.01.2010	Show Cause Notice by the Chairman as to imposition of punishment
Ex. W12	28.01.2010	Order of dismissal
Ex. W13	21.02.2007	Pallavan Grama Bank (Officers and Servants) Service Regulation 2007
Ex. W14	04.03.2010	Appeal by the petitioner
Ex. W15	19.06.2010	Order passed in the appeal

On the Management's side

Ex.No.	Date	Description
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N/A

नई दिल्ली, 24 दिसम्बर, 2013

कांआ 80.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 393/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/12/2013 को प्राप्त हुआ था।

[सं एल-12012/512/2000-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 80.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 393/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court,

Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 24/12/2013.

[No. L-12012/512/2000-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

PRESENT

Binay Kumar Sinha, Presiding Officer, CGIT-cum-Labour
Court, Ahmedabad,

Dated 21st October, 2013

Reference (C.G.I.T.A.) No. 393 of 2004

Reference I.T.C. No. 47 of 2001 (old)

Reference (ITC) No. 319 of 2009

The Chief Manager,
State Bank of India,
Gujarat Vepari Mahamandal,
Industrial Branch,
Odhav road, Ahmedabad
(Gujarat)-382430First Party

And

Their Workman
Shri Jayeshgiri Natvargiri Gosai
Through the General Secretary
Gujarat Shramjivi Parishad,
Near Dwarkanath Hindi Higher
Secondary School, Gujarat Vepari
Mahamandal, Tolnaka, Odhav Road,
Ahmedabad (Gujarat)-382430Second Party

For the First Party : Shri Bhushan K. Oza, Advocate

For the Second Party : Shri R.B. Chowdhary, Advocate

AWARD

The Central Government, Ministry of Labour, New Delhi *vide* its order No. L-12012/512/2000-IR(B-I) dated 24.07.2001, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the I.D. Act, 1947 referred the dispute for adjudication in terms of reference under the Schedule:

SCHEDULE

"Whether the demand of Gujarat Shramjivi Parishad, Ahmedabad for reinstatement with full back wages along with continuity of service and all consequential benefits in respect of Shri Jayeshgiri Natvargiri Gosai by the management of State Bank of India in justified?"

If so, to what relief the concerned workman is entitled?"

2. The case of the second party/workman/Union is that Jayeshgiri was working since 22.06.1994 as watchman as permanent employee with sincerity and devotion and he was being paid Rs. 100 per day as the rate of minimum wages. He was working daily 12 hours and if any day there was any delay in duty then he was threatened by responsible person of Bank to terminate him. Due to fear of losing service he could not make complaint before appointment authority. He was not given benefits like earned leave, festival leave, bonus, overtime for extra work etc. So he decided to raise voice against the management of Bank as a result he was terminated *w.e.f.* 03.02.2000 by the 1st party illegally without complying with the provision of labour law. No show cause notice was asked from him, no departmental enquiry held against any alleged misconduct and the provision of section 25F, 25G and 25H of the I.D. Act, 1947 have been breached by the 1st party employer. The workman Jayeshgiri completed 240 days of works in every year prior to his termination. On these scores, prayer is to declare his termination illegal and unjust and to reinstate him with full back wages with continuity of service and consequential benefits on the original post and also with cost of Rs. 5001 and also for any other relief to which the workman is found entitled.

3. As against this, the contention of the 1st party Bank as per its written statement Ext. 10 is that the 2nd party workman was not appointed as permanent employee on 22.06.1994. This also untrue that he was getting Rs. 100 per day and was working for twelve hours a day. Rather the real fact is that the 2nd party workman Jayeshgiri was kept as watchman on stopgap arrangements on temporary basis from 26.06.1994 and since there was no need for his duty so there was no need for his duty so he was terminated from 03.02.2000. He was getting Rs. 70 towards daily wages which was raised to Rs. 100 per day. He was engaged intermittently and he never worked continuously. The workman was working as home guard in the state of Gujarat and he was kept temporary for doing night duty of watchman in the said branch of Bank on daily rated basis. The Bank used to engage ex-service man for duty of night watchman in the bank where as concerned workman Jayeshgiri was working as a home guard in the state of Gujarat and so for a stop gap arrangement he was kept for duty in the night as watchman. Concerned workman was not given any appointment letter since his engagement as night guard (watchman) was not done under the process of recruitment rules for regular employee. He never completed 240 days of work in a year and so there was no need for compliance of the provision of section 25F of the I.D. Act and the 1st party has not also violated the provision of section 25G and 25H of the I.D. Act. The reference is not maintainable; the 2nd party has no cause of action. The 2nd party is not entitled for any relief and the reference is

liable to be dismissed.

4. In view of the rival contention of the parties in their pleadings, the following issues are taken up for consideration and adjudication:

ISSUES

- (i) Is the reference maintainable?
- (ii) Whether the 2nd party/Union has valid cause of action for raising the demand?
- (iii) Whether the concerned workman Jayeshgiri Gosai has completed 240 days of works in the calendar year preceding his oral termination on 03.02.2000?
- (iv) Whether the 2nd party workman/Union is entitled to the relief of reinstatement and back wages along with continuity of service as per terms of reference?
- (v) What orders are to be passed?

FINDINGS

5. **ISSUE No. iii:**— The 2nd party through a list Ext. 11 produced four kinds of documents. Ext. 11/1 is the copy of representation dated 19.06.2000 submitted to the conciliation officer (A.L.C.) central on the subject of reinstatement of the workmen with full back wages and continuity of service by the Union General Secretary and its copy sent to the Chief Manager, S.B.I., Gujarat Vepari Mahamandal Adyogik branch, Odhav Road, Ahmedabad, (the present 1st party). Ext. 11/2 is acknowledgement due of copy of letter sent to the Chief Manager S.B.I. of said branch. Ext. 11/3 series are attendance sheet of the 2nd party Jayeshgiri Natvargiri Gosai from 22.06.1994 and onward regarding his night duty as watchman in the said branch of S.B.I. from 8 p.m. to 8 a.m. containing his signature and also containing seal of the S.B.I., Odhav Branch. These attendance sheet are in 85 pages from 22.06.1994 to 02.02.2000. Ext. 11/4 is copy of certificate dated 05.02.2000 given to the concerned workman that the services of Shri Jayeshgiri Natvargiri Gosai as a watchman had been utilised as and when required by the Bank since 22.06.1994. The conduct of Shri Gosai has been satisfactory. The concerned workman Jayeshgiri deposed in oral evidence vide Ext. 12 and supported his stand that he worked as watchman from 22.06.1994 to 02.02.2000 as night guard in the Odhav branch of S.B.I. His evidence is that he was appointed on permanent post. But admitted during cross examination by the lawyer of the 1st party that no appointment letter was issued to him going through the recruitment process. He admitted that his wages was daily rated and that his name was not sponsored by the employment exchange. In his oral evidence, it has come that from 22.06.1994 to 02.02.2000 he completed 240 days of work every calendar year. However, he admitted at page 7 of his oral evidence that he was a home guard appointed by the state of Gujarat and that when he joined bank as

watchman before that he was serving as home guard and that in the day he was working as a home guard and in the night he was performing duty of watchman in the said branch of Bank.

6. The 1st party did not adduce oral evidence of management witness, rather relied upon its stand taken in written statement also find support during cross examination of workman Jayeshgiri (Ext. 12) where in it was admitted by the concerned workmen that he was appointed home guard and in day time he was doing home guard duty and in the night performing duty of night watchman in Odhav branch of S.B.I. and that he was being paid Rs. 100 on daily basis and that he was not appointed as regular employee of Bank, no appointment letter was given to him, his name was not sponsored by the employment exchange.

7. From the evidence oral and documentary discussed above, this fact is well proved that Shri Jayeshgiri Natvargiri Gosai completed 240 days of work on daily rated basis in every calendar year and also in the calendar year preceding his oral termination w.e.f. 03.02.2000. So before his retrenchment the employer (1st party) had legal obligation u/s 25F of the I.D. Act, 1947 for giving him retrenchment compensation and notice pay which was not complied with by the 1st party.

8. This issue is, therefore, decided in favour of the 2nd party workman Shri Jayeshgiri Gosai that he completed 240 days of work in the calendar year preceding oral termination on 03.02.2000.

9. **ISSUE NO. iv:—**Shri R.B. Chowdhary learned Union representative argued that since the employer Bank (1st party) had violated the mandatory provision of section 25F of the Industrial Dispute Act, 1947. So the concerned workman who completed 240 days of work in every year is entitled for reinstatement to the post of night guard in Odhav Branch of S.B.I. with full back wages and continuity of service. In support of such argument Mr. Chowdhary has relied upon the case law of Devinder Singh-appellant Vs. Municipal Council, Sanaur—respondent (2001) (6) Supreme Court cases 584. But from perusal of this case law it is obvious that the same is based on termination of a workman engaged on contract basis and that too termination was affected one month before his contractual engagement was to expire as the workman had worked for more than 240 days within definition of section 25B of I.D. Act. In the instant case the status of the 2nd party workman Jayeshgiri was not as that of contractual engagement his engagement was as that of daily rated worker and more so in day time he was working as home guard appointed under the state of Gujarat and in the night he had been engaged on daily rated basis by the management of Odhav branch of S.B.I. On recommendation of local Odhav Police for protecting bank property from thief active in that locality. More so, concerned workman Jayeshgiri was gaining double income in the day time getting wages/salary as

home guard from the state Government of Gujarat and in the night duty of night watchman was getting daily rated wages from the bank (1st party). So it cannot be expected as to his regular appointment as bank's night guard on recommendation of local police when the fact was quite known that he is appointed home guard under the service of state of Gujarat. So the case law relied upon (Supra) on behalf of the 2nd party Union is not applicable to the facts and circumstances of the instant case. The case law of Jaipur Vidyut Vitran Nigam Ltd. Vs. Nathuram (2010 LLR 97 S.C.) as relied on by Mr. Chowdhary for back wages does not appear to be applicable in the instant case because in the given case law the fact was that the respondent was appointed as a casual labour in the erstwhile Rajasthan State Electricity Board was caught accepting bribe by Anti-Corruption Bureau and in appeal High Court acquitted respondent of charges levelled against him and the corporation (Jaipur Vidhyut Nigam Ltd.) reinstated the respondent and after retirement from service the respondent filed writ petition for grant of back wages as per regulation of the management/corporation provide that in case of acquittal of an employee charged for any offence, he will be entitled to full back wages and so back wages to the respondent was allowed. The case law of state of Punjab and others-appellant Vs. Babita Kumari 2006 S.C.C. (L&S) 396 also does not come to the rescue of the 2nd party workman claiming for reinstatement with full back wages because of change of the view of the Hon'ble Apex Court in catena decision that a casual labour/worker even completed 240 days of work in some Calendar year is not entitled for reinstatement with back wages as a matter of right in case of violation of the provision of section 25F of the I.D. Act, 1947 by the employer rather reasonable monetary compensation will sub serve the ends of Justice. Shri Bhushan K. Oza, learned counsel for the 1st party (Bank) has relied upon the case of senior superintendent Telegraph (Traffic) Bhopal Vs. Santosh Kumar Seal (2010(0) GLH.EL.SC 48285=2010(6) SCC773=2010(3) CLR17. Yet in another case law of Bharat Sanchar Nigam Ltd. Vs. Mansingh and others (2011 STPL (web 966 S.C)) it has been held by their Lordship that this Court in catena of decisions has clearly laid down that although an order of retrenchment passed in violation of section 25F I.D. Act may be set aside but an award of reinstatement should not be passed. This court has distinguished between a daily wagger who does not hold a post as that of a permanent employee and that instead monetary compensation would meet the ends of Justice.

10. In view of the facts and circumstances of the instant case discussed above and also keeping in view the case laws cited on behalf of the parties. I am of the considered view that the 2nd party workman Shri Jayeshgiri Natvargiri Gosai is not entitled to reinstatement to work on the post to which he was performing as a daily rated wagger prior to 03.02.2002 in spite of his retrenchment without

following the provision of Section 25F of the I.D. Act, 1947. As he is not entitled to any back wages because he was not holding post as that of a regular/permanent employee. Instead he is found entitled for a reasonable monetary compensation in this case which is to be examined what amount of reasonable compensation is to be awarded to him keeping in view all the facts and circumstances of the case while discussing issue No. V.

11. In view of the discussion above, I find and hold that the 2nd party workman is not entitled for reinstatement with or without back wages and for continuity of service. This issue is decided accordingly against the 2nd party.

12. ISSUE No. V.:—Considering all the facts and circumstances of the case that the 2nd party workman Shri Jayshgiri Natvargiri Gosai is in gainful employment of a home guard under the state of Gujarat even after his oral termination *w.e.f.* 03.02.2000. So, there is no such case for grant of huge monetary compensation to him, rather a lump sum compensation of Rs. 40,000 (Rupees Forty Thousand Only) is found reasonable to be awarded to the 2nd party Shri Jayeshgiri Gosai which will sub serve the ends of justice.

13. ISSUE NO. I & II:—This reference is maintainable so far as entitlement of compensation from the 1st party (Bank) is concerned and so in this way the 2nd party/ Union has valid cause of action to raise the dispute.

This reference is accordingly allowed in part. No order as to cost.

That 1st party is directed to pay the amount of compensation of Rs. 40,000 to the 2nd party Shri Jayeshgiri Natvargiri Gosai with interest @ 9% per annum from the date of this award.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 81.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लक्ष्मी विलास बैंक लि० प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 106/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/12/2013 प्राप्त हुआ था।

[सं० एल-12012/74/2005-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 81.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 106/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court,

Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Laxmi Vilas Bank Ltd. and their workmen, received by the Central Government on 24/12/2013.

[No. L-12012/74/2005-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT

BINAY KUMAR SINHA, Presiding Officer, CGIT-
cum-Labour Court, Ahmedabad,

Dated 24th October, 2013

Reference: (CGITA) No. 106/2005

The General Manager,
Laxmi Vilas Bank Ltd.
Personnel Department,
Administrative Office,
Karur-639006, Karur

.....First Party

AND

Ms. Nayana K. Bhutwala,
67-68-11,
Hari Hari Cooperative Housing Society-1
Near Katargam Main Road,
Surat-395004
Surat (Gujarat)

.....Second Party

AWARD

The Central Government/Ministry of Labour, New Delhi vides Order No. L-12012/74/2005 IR(B-I) dated 08.11.2005 under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act, 1947, referred the dispute for adjudication to this Tribunal on terms of reference in the Schedule:

SCHEDULE

"Whether the action of management by dismissing Ms. Nayana K. Bhutwala, Ex-staff from the service of the Bank is legal and justified? If no, what relief the workman is entitled to? And to what extent?"

2. Even after several notice was issued the workman (S.P.) though appeared at Surat when the case record was pending before Industrial Tribunal, Surat but failed to submit statement of claim. On transfer of the case record to this C.G.I.T.-cum-Labour Court by the order of M.O.L., New Delhi, again fresh notice sent to the parties to appear before this Tribunal and to file S/c and W.S. respectively, the workman (the 2nd party) failed to appear before this Tribunal. There is no statement of claim in support of this Industrial dispute. However, the 1st party filed pursis

(Ext. 18) to close or dispose of this case due to absence of the 2nd party (workman).

3. The 2nd party since failed to file statement of claim and so no need to keep this case record awaiting for filing of S/c. So the workman (S.P.) has failed to prove that the action of management by dismissing her from the services of the Bank is not legal and justified. The S.P. (workman) is not entitled to any relief. Reference is, therefore, answered in favour of the management of Bank (1st Party).

The reference is dismissed. No order as to cost.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 82.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 1104/2004) प्रकाशित करती है जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-12012/255/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 82.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 1104/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 24/12/2013.

[No. L-12012/255/98-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT

BINAY KUMAR SINHA, Presiding Officer, CGIT-cum-Labour Court, Ahmedabad

Dated 18th October, 2013

Reference: CGITA No. 1104 of 2004

Reference (ITC) No. 06 of 1999 (old)

1. The General Manager,
State Bank of India,
(Development & Personnel Banking)
Lal Darwaja, Bhadra

2. The Branch Manager,
State Bank of India,
Surendranagar Branch,
Surendranagar-363001First Party

And

Their Workman
Shri Mansukh Popatlal Vaaghela
Dr. Ambedkar Nagar No.-1,
Opp. Ambedkar Chowk,
Cause Way Road, Surendranagar-1 Second Party

For the 1st party : Shri Prakash S. Gogia, Advocate

For the 2nd party : Shri Nalin U. Bhatta, Advocate

AWARD

The Central Government/Ministry of Labour, New Delhi vide its order No. L-12012/255/98-IR(B-I) dated 12.3.1999 in exercise of power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947, referred the dispute for adjudication in terms of reference under the Schedule:

SCHEDULE

"Whether the action of the management of State Bank of India, Ahmedabad/Surendranagar in terminating the services of Shri Mansukh Popatlal Vaghela is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The case of the workman (the 2nd party) as per statement of claim (Ext. 2) is that he was working at Surendranagar branch of SBI as a peon w.e.f. 11.3.1994 and wages per day was Rs. 18 and lastly he was getting Rs. 50 per day at the time of termination. He was doing manual works of different types regularly and his works was of permanent nature and he was working from 8.30 a.m. to 6.30 p.m. But he was orally terminated by the 1st party on 9.9.1997 and he was not given legal dues or any retrenchment compensation, where as he worked for 240 days in a year. He worked for 77 days in 1994, 260 days in 1995, 251 days in 1996 and 122 days in 1997. The 1st party committed breach of section 25F of the I.D. Act, 1947. The 1st party employed new person after his termination and thus committed breach of section 25(H) of the I.D. Act, 1947. The 1st party bank have not taken into consideration of his past record of service before termination. He failed to get employment elsewhere and he is unemployed, facing financial crisis. On these scores, prayer is that the action of the 1st party in terminating him is illegal and unjust, he be reinstated with full back wages and continuity of service w.e.f. 9.9.1997 and also for cost of the litigation and to pass order to which the workman is found entitled.

3. As against this, the case of the 1st party (Bank) as per written statement (Ext. 5) is that the 2nd party workman

was a casual daily rated worker and he himself left his service and it is not a case of dismissal, discharge or termination. The 2nd party was called to perform the casual work at Surendranagar branch of the Bank. No permission of Zonal office of SBI was taken before taking the service of the 2nd party at Surendranagar branch. It has been denied that the 1st party (Bank) had terminated the service of the workman on 9.9.1997 orally. The workman himself has stopped coming to Bank and so no question of payment of retrenchment compensation and notice pay to him. But if this court comes to the conclusion that the 2nd party workman was entitled to retrenchment compensation and notice pay, the same may be awarded to him but he is not entitled for reinstatement. However, the 1st party have denied the averments of statement of claim para wise. On these scores, prayer is that the 2nd party is not entitled to relief and the reference is fit to be rejected with cost.

4. In view of the pleadings and rival contention of the parties the following issues are taken up for discussion and adjudication in the light of terms of the reference:—

ISSUES

- (i) Whether the reference is maintainable?
- (ii) Has the 2nd party (workman) valid cause of action to raise dispute?
- (iii) Whether the workman Mansukh Popatlal Vaghela has completed 240 days of works in calendar year preceding his oral termination on 9.9.1997?
- (iv) Whether the 2nd party workman is entitled to the relief of reinstatement and for back wages? If not, to what relief he is entitled?
- (v) What orders are to be passed?

FINDINGS

5. **ISSUE NO. iii :—** The 2nd party workman Shri Vaghela has produced with a list Ext. 6 as many as 242 documents which are mainly xerox copies of voucher and petty encashment of bills to the 2nd party workman for the period 10.1.1995 to 4.8.1997 (upto Ext. 6/236). Thereafter from Ext. 6/237 to 6/242 are copies of legal notice to Bank regarding demand and for reinstating him on the post and the documents of conciliation process before A.L.C. (Central) Adipur including written reply of the Bank. The oral (evidence) of the 2nd party (Mr. Vaghela) is at Ext. 10. In the cross examination by the 1st party's lawyer, the concerned workman has specifically admitted that he was working as a daily wager and he was not a regular appointee. He also admitted that the 1st party Bank has their own regular peons and that no recruitment procedure was followed by the Bank at the time of engaging him.

6. On behalf of the 1st party Bank vouchers from 1995 to 1997 and petty cash register from 9.8.1996 to 30.1.1997 have been exhibited as the 2nd party workman

has accepted those documents by putting his endorsement of no objection on 11.3.2004 on the list of documents filed on 21.9.2003 (Ext. 12). The oral evidence on behalf of the 1st party Bank was given by Shri Dhaivat Mehta at Ext. 20 who was the Branch Manager at Surendranagar Branch of SBI at the relevant time. This management witness has categorically denied the allegation of the 2nd party and he stated that the concerned workman Mr. Vaghela's status was of a daily wager and he was engaged for casual work and he (2nd party) never worked on regular post nor he was performing the job of regular employee rather he had performed the temporary nature of job and that the 2nd party has not completed 240 days in the calendar year.

7. From scrutinising the pleadings of the parties, statement of claim and written statement and the documentary evidence *vide* Ext. 6 series and Ext. 12 series of the 2nd party and the 1st party respectively and also considering the oral evidence of the 2nd party (Ext. 10) of the 1st party witness (Ext. 20). I am of the considered view that the 2nd party workman Shri Mansukh Popatlal Vaghela was working as casual labour in Surendranagar Branch of State Bank of India and he completed more than 240 days of work in some calendar year and he also completed 240 days of work in calendar year preceding his alleged termination on 9.9.1997 if his works are counted backward from 8.9.1997 to 9.9.1996 completing calendar year in this way.

8. Thus from the discussion above, I find and hold that the workman, the 2nd party Mansukh Popatlal Vaghela had completed 240 days of work in calendar year preceding his termination on 9.9.1997. This issue is, therefore, decided in favour of the 2nd party.

9. **ISSUE NO. iv:—** The learned counsel for the 1st party has cited a case law of D.G.M. Oil Mill & Natural Gas Corp. Ltd. another Vs. Ilias Abdul Rehman [J.T. 2005 (II) S.C. 87] which is based on number of days of work in broken period cannot be taken as continuous employment for the purpose of section 25F of the I.D. Act that the employer breached the provision in terminating the casual worker. This case law is not helpful to the 1st party considering the evidence oral and documentary examined above while arriving at conclusion to issue No. iii in the foregoing. So, now it has to be born in mind that there has been violation by the 1st party (Bank) in not providing retrenchment compensation and notice pay to the 2nd party. But, due to breach of provision of section 25F by the employer Bank the 2nd party (Mr. Vaghela) has had no right for reinstatement and back wages because he in the capacity of casual labourer was not holding a post as that of regular employee this has been held by the Hon'ble Apex Court in *Catena of decisions*. In the case of senior superintendent (telegraph) traffic Bhopal Vs. Santosh Kumar Seal & other (2010 iii CLR 17 S.C.) their Lordship of the Hon'ble Apex Court have held that grant of reasonable compensation to

the workman instead of reinstatement and back wages in case of termination of service if found illegal will sub serve the ends of Justice.

10. This issue is accordingly decided that the 2nd party workman Shri Mansukh Popatlal Vaghela is not entitled for reinstatement as casual worker and for any back wages rather since his oral termination w.e.f. 9.9.1997 without complying with mandatory provision of section 25F of the I.D. Act is illegal. So, he (the 2nd party) is found entitle for reasonable compensation from the 1st party.

11. **ISSUE NO. i & ii:**— This reference is maintainable so far as entitlement of compensation from the 1st party is concerned and so in this way, the 2nd party has valid cause of action to raise the dispute.

12. **ISSUE NO. v:**— Considering all the facts and circumstances of the case, a lump sum compensation of Rs. 20,000 (Rupees Twenty Thousand Only) is awarded to the 2nd party workman Shri Mansukh Popatlal Vaghela which will sub serve the ends of justice.

This reference is allowed in part. No order as to cost. The 1st parties are directed to pay the amount of compensation of Rs. 20,000 to the 2nd party with interest @ of 9% per annum from the date 18.6.2002 when the workman deposed in support of his statement of claim.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 83.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार युनटिड वस्टरन बैंक लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 158/98) को प्रकाशित करती है, जो केंद्रीय सरकार को 24/12/2013 को प्राप्त हुआ था।

[सं एल-12012/299/97-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 83.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 158/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of United Western Bank Ltd. and their workmen, received by the Central Government on 24/12/2013.

[No. L-12012/299/97-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/158/98

SHRI R.B. PATLE, Presiding Officer

Shri Chhavikant Ramnath Chaturvedi,
Dr. Bajpai Ward, Murri Road,
Khandelwal House,
Gondia, Distt. Bhandara (MS)Workman

Versus

Branch Manager,
United Western Bank Ltd.,
Hospital Road, Gondia,
Distt. Bhandara (MS)Management

AWARD

(Passed on this 11th day of November, 2013)

1. As per letter dated 22-7-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/299/97-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of the United Western Bank Ltd. represented through (1) It's Branch Manager, Gondia and (2) It's General Manager at Satara in stopping from working Shri Chhavikant Ramnath Chaturvedi, a small Saving Deposit Agent w.e.f. 1-6-1996 and not allowing him to work as an Agent or as a clerk, is just, proper and legal? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/3 to 2/8. Case of Ist party workman is that he was appointed as an Agent to collect deposits on behalf of the United Western Bank. The agreement was executed between parties authorizing workman for collection of deposit from various individuals and establishments. The workman was required to fill in account opening forms, daily deposit slips, preparation of scrolls and deposit the cash in the Bank. He was required to post deposit entries of each individual to their respective amount in the bank books. He was receiving amount Rs. 3453 per month on average by way of his collection charges. That he is workman within meaning of Section 2(s) of I.D. Act. He was working from 1990 to 1996. Large number of persons were employed but they were not absorbed on equivalent post.

3. That scheme called Madhy Sanchay Deposit was closed by IInd party. However employees were not absorbed on equivalent post. Retrenchment compensation

provided under Section 25-F was not paid. Ist party was directed to deposit all goods of Accounts with the Bank. It is contented that the termination of his services by communication dated 18-6-96 is illegal. His representation dated 24-2-97 was not considered. The management of the Bank contented that there was no employee-employer relationship. The matter was taken before ALC(C) for conciliation. On failure of conciliation proceeding, reference has been made. Workman claims to be entitled for reinstatement and compensation.

4. IInd party Bank filed Written Statement at Page 5/1 to 5/7. It is case of IInd party that workman was engaged as Madhu Sanchaya Deposit Agent. That relationship of workman and the management Bank was of a Principal and agent only. MSD Scheme at Nagpur and Jalgaon regions were closed. Said decision was taken by Head Office on 27-5-96. He agreement with Ist party workman was cancelled. Ist party workman has misconstrued he agreement as termination of his service.

5. IInd party did not dispute execution of agreement dated 7-11-90 between parties. Relationship of employer employee has been denied. It is denied that Ist party workman is covered under Section 2(s) of I.D. Act. It is denied that his services are terminated illegally in violation of Section 25-F of I.D. Act. IInd part submits that the workman is not entitled to relief claimed by workman.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------------------------|
| (i) Whether the action of the management of the United Western Bank Ltd. represented in stopping from working Shri Chhavikant Ramnath Chaturvedi, a small Saving Deposit Agent <i>w.e.f.</i> 1-6-1996 and not allowing him to work as an Agent or as a clerk is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

7. From pleadings of Ist party workman narrated above, he is claiming to be employee of IInd party and his services are terminated in violation of Section 25-F of I.D. Act, he was not paid retrenchment compensation. The IInd party has denied relationship of employer employee with the workman and the management of IInd party. All other material contentions of workman are also denied. Workman has not adduced any evidence to substantiate his claim. The evidence of workman is closed on 13-5-09. The management filed affidavit of witness Ravindra Manohaor Deochake. The affidavit of the management's witness is

devoted on all the material contentions detailed in the Written Statement filed by the IInd party. That the workman was engaged as an Agent for collecting deposit from customers. He was not working as an employee. There was no control on his working hours. There was no minimum ceiling of deposit made by him. He is not covered as workman defined under I.D. Act. There were no fixed office hours for MSD Agent. Workman was not required to attend office for whole day. As a matter of practice amount collected during a day as an Agent used to be deposited in Bank before closure of the Bank. The evidence remained unchallenged as workman did not cross-examine the management's witness. I do not find reason to disbelieve unchallenged evidence of the management. Workman has failed to adduce evidence to substantiate his contentions. Thus the workman's contention that his services illegally terminated in violation of Section 25-F is not established. It is also not established that Ist party workman is covered as workman under Section 2(S) of I.D. Act. Therefore I record my finding on Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) Action of the management of United Western Bank Ltd. represented in stopping from working Shri Chhavikant Ramnath Chaturvedi, a small Saving Deposit Agent *w.e.f.* 1-6-1996 and not allowing him to work as an Agent or as a clerk is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 84.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार सहायक निदेशक, केन्द्रीय सिल्क बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 118/2000) को प्रकाशित करती है, जो केंद्रीय सरकार को 24/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/246/99-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 84.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2000) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Asstt. Director, Central Silk Board and their workmen, which was received by the Central Government on 24/12/2013.

[No. L-42012/246/99-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

नई दिल्ली, 24 दिसम्बर, 2013

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of I.D. Act.

Reference No. 118 of 2000.

PARTIES : Employers in relation to the
management of Asstt. Director,
Central Silk Board.

AND

Their Workmen

PRESENT : SHRI H.M. SINGH, Presiding
Officer.

APPEARANCES :

For the employers : Shri Ram Kishore,
Scientist-'C'

For the workman : None

State : Jharkhand Industry : Textile

Dated, the 29th January, 2010

AWARD

By Order No. L-42012/246/99/IR(DU) dated 17.2.2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Basic Seed Multiplication and Training centre at Kharsawan to terminate the service of Shri Motilal Mahato, workman *w.e.f.* 6.2.97 from the roll of BSMATC is legal and justified? If not, to what relief the workman is entitled?"

2. This reference was received in this Tribunal on 1.3.2000. But inspite of notice being sent to the parties neither the concerned workman appeared before this Tribunal nor any written statement has been filed on behalf of the concerned workman. It, therefore, appears that the concerned workman is not interested to contest the case.

In such circumstances I render a 'No Dispute' award in the present reference case.

H.M. SINGH, Presiding Officer

का०आ० 85.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.एस. एन.एल., बिहार टेलिकॉम सर्किल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 104/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-40011/09/2006-आईआर (डीयू)]

पी.के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 85.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2006) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of BSNL, Bihar Telecom Circle and their workman, which was received by the Central Government on 24.12.2013.

[No. L-40011/09/2006-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBADIn the matter of a Reference U/S 10(1) (D) (2A) of I.D.
ACT, 1947

Ref. No. 104 of 2006

Employers in relation to the management of BSNL
Bihar Telecom Circle

AND

Their Workmen

PRESENT : Shri Ranjan Kumar Saran, Presiding Officer**APPEARANCES:**

For the Employers : Sri S. Prasad, Advocate

For the Workman : Sri D. Mukherjee, Advocate

State: Jharkhand Industry-Telecom

Dated : 15-03-2013

AWARD

By Order No. L-40011/9/2006-IR (DU), dt. 15.11.2006, the Central Government in the Ministry of Labour has, in exercise of the powers conferred under clause (d) of sub-section 1 and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of BSNL, Arwal in terminating the service of Shri Ramdeo Kumar w.e.f. 08.04.2005 is legal and justified? If not to what relief the workman is entitled?"

2. The case is received from the Ministry of Labour on 06.12.2006. After notice both parties appeared, the workman files their written statement on 22.06.2007 and after that he files rejoinder on 06.02.09.

3. In this case, both the MWs have consistently stated that the workman was never worked in their establishment. They further stated that the documents filed by the workman are photocopies and such are not admissible in evidence and such photocopies have taken is fabricated documents.

4. The learned counsel for the workman gave stress on a document which was on BSNL pad, in which the concerned workman ordered to give telephone connection to some one. On which the learned counsel for the management is submitted that on the said pad, no letter No. of the company is there. The person signed on the said document is not an officer of the BSNL and as such the said lone document should not be accepted as evidence. More over that is a photocopy.

5. The workman examined in the case has stated that he has not having any appointment letter. He further stated that T.T.A. is not an officer of BSNL.

6. The T.T.A MW-2 though examined his evidence has no help either to the management or to the workman. He also says that Ext. W-6 does not bear his signature.

7. In this case there is not adequate evidence, to hold that the workman was working in the BSNL in any capacity.

8. Considering the fact and circumstance, I hold that the action of the management of BSNL is legal and justified. Hence the workman Sri Ramdeo Kumar is not entitled any relief. The reference passed against the workman.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

कांआ 86.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय प्रसार भारती निगम, आकाशवाणी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 46/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं एल-42012/58/2008-आईआर (डीयू)]

पी.के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 86.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2008) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Prasar Bharti Corporation of India, Akashwani and their workman, which was received by the Central Government on 24.12.2013.

[No. L-42012/58/2008-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD**

**In The Matter of a Reference U/S 10(1) (D) (2a) of the
Industrial Dispute Act, 1947**

Reference No. 46 of 2008

PARTIES: Employers in relation to the management of
Prasar Bharti Corporation of India, Akashwani

AND

Their Workmen

PRESENT : Shri RANJAN KUMAR SARAN,
Presiding Officer

APPEARANCES:

For the Management : None

For the Union/workman : None

State: Jharkhand Industry : Information &
Broadcasting

Dated : 12-2-2013

AWARD

By Order No. L-42012/58/2008-IR (DU), dt. 06.10.2008, the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Prasar Bharti Corporation of India, Akashwani in terminating the service of their workman Shri Sanjay Kumar and Shri Basuki Prasad Sharma without complying Section 25 (F) of the I.D. Act and not regularizing them in service in the post of Announcer-cum-compare is legal and justified?: To what relief the concerned workman are entitled to?"

After having received the Order No. L-42012/58/2008-IR (DU) dt. 06.10.2008, the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for

adjudication of the dispute as reference case No. 46 of 2008 was registered on 02.10.2008 but till 17.1.2013 no Written Statement and document was filed on behalf of the Union/workman. Ultimately two notices were issued to the sponsoring Union for filling of Written Statement & document by speed post/Registered post but till 17.1.2013 no one appears nor any steps have been taken by them.

In view of such circumstance it seems that the workman or the Union is not interested to contest their case further. And as such, it is ordered:

ORDER

That let a "No Dispute" Award be passed. Send the copies of the award to the Govt. of India, Ministry of Labour & Employment, New Delhi for information and needful. Reference is accordingly disposed off.

R.K. SARAN, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 87.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 236/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-12012/82/99-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 87.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 236/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 24.12.2013.

[No. L-12012/82/99-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/236/99

SHRI R.B. PATLE, Presiding Officer

Shri Manoj Kumar Yadav,
S/o Shri M.P. Yadav,
SBI Colony, E/4, Sector-6,
Distt. Durg (MP)

..... Workman

Versus

Branch Manager,
State Bank of India,
Market Branch,
Sector-10,
Bhilai, Distt Durg (MP)
Assistant General Manager,
State Bank of India, Region-III,
Shankar Nagar,
Raipur (MP)

..... Management

AWARD

(Passed on this 29th day of October, 2013)

1. As per letter dated 18-6-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/82/99-IR(B-I). The dispute under reference relates to:

"Whether the termination of service of Shri Manoj Kumar Yadav, S/o Shri M.P. Yadav, Ex-Temporary Messenger-cum-Farrash at Section 10 Branch of State Bank of India Bhilai *vide* letter No. s-119 dated 24-2-97 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 4/1 to 4/4. Case of Ist party workman is that he was temporarily appointed on post of messenger by IInd party on daily rated basis. He was appointed for intermittent duration shown in para-2 of his statement of claim. He claims that he was working for whole year in 1996 and 55 days from January 97 to 24-2-97. That he had performed duties of messenger more than 240 days in calendar year. He had acquired status of permanent employee within Section 25 (B) of I.D. Act. That IInd Party was given artificial break. The work was available, the post was also available but the IInd party abruptly discontinued services from 24-2-97 without issuing showcause notice. There was no adverse report against him. He worked with devotion, obediently.

3. Ist party workman further submits that as per order dated 16-1-90, he was called for interview for post of messenger by the Regional Manager. He was interviewed on 31-1-90. He was selected for post of messenger in the vacant post. The Regional Manager Raipur *vide* letter dated 19-9-95 directed Branch Manager to select one messenger for these branches as they were suitable candidates selected after interview. The Branch manager Bhilai appointed Ist party as messenger on different posts. That his discontinuation without notice is illegal retrenchment. Section 25-F (a,b,c) of I.D. Act were not complied. Principles of natural justice were not followed. He was not given opportunity of re-employment. Fresh candidates were

appointed by IInd party. Thus IInd party violated Section 25-F of I.D. Act. On such grounds, Ist party prays for his reinstatement with consequential benefits.

4. IInd party filed Written Statement at Page 8/1 to 8/10. The name of Ist party workman is denied outright. As per IInd party, Ist party workman worked for 74 days, 55 days in 1985 and 85 days in 1996-97. Details given in Para-1 of the Written Statement. That Ist party not worked for 240 days during any of the year is not covered as workman under Section 25(B) of I.D. Act. That Ist party was employed on contract basis for 85 years. Workman was employed on daily wages. His contract ended every days at end of the day. His discontinuation is covered under Section 2(00)(bb) of I.D. Act. Workman was interviewed on 31-1-90 along with other eligible candidates. He was selected and was kept on waiting list. However he cannot claim right to be absorbed in the Bank. Ist party employee was daily rated employee for few days as per exigency of the work. That Ist party was given opportunity to place permanent selection, he was interviewed. His name was figured much below of the waiting list. Therefore he could not be appointed. That the present interview doesnot get right of appointment as his name was figured low in Waiting List. The allegation of workman is denied. IInd party prays for rejection of claim of workman.

5. Workman filed rejoinder at Page 9/1 to 9/3 reiterating his contentions in the statement of claim.

6. Considering pleadings on record, the points which arise for may consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the termination of service of Shri Manoj Kumar Yadav, S/o Shri M.P. Yadav, Ex-Temporary Messenger-cum-Farrash at Section 10 Branch of State Bank of India Bhilai *vide* letter No. s-119 dated 24-2-97 is legal?

(ii) If not, what relief the workman is entitled to?"

Relief prayed by workman is rejected.

REASONS

7. Though workman is challenging termination of his service from 24-2-97 on the ground of discrimination, violation of Section 25-F, H of I.D. Act, he failed to adduce any evidence in support of his claim. The evidence of workman was closed on 1.7.2013.

8. Management filed affidavit of evidence of witness Shri Vijay Vasant Raikwad covering most of the contentions of IInd party. Management's witness has stated that Ist party workman worked for 74 & 55 days in 1985, 85 days in 1996-97 at different branches. That workman had not completed 240 days service in one calendar year. His

evidence remained unchallenged as Ist party workman did not cross-examine the management's witness. Workman has not adduced evidence. He has not cross-examined witness of the management's witness. Therefore there is no evidence to establish that termination of his services is in violation of Section 25-F of I.D. Act. Therefore I record my finding in Point No. 1 in Affirmative.

9. In the result, award is passed as under:—

- (i) Termination of service of Shri Manoj Kumar Yadav, S/o Shri M.P. Yadav, Ex-Temporary Messenger-cum-Farrash at Section 10 Branch of State Bank of India Bhilai *vide* letter No. s-119 dated 24-2-97 is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2013

का०आ० 88.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 50/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.12.2013 को प्राप्त हुआ था।

[सं० एल-12012/146/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 24th December, 2013

S.O. 88.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 50/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workman, received by the Central Government on 24.12.2013.

[No. L-12012/146/98-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/50/99

SHRI R.B. PATLE, Presiding Officer

Shri Abdul Khalique Khan,
10, Tilak Nagar,
Dewas (MP)

...Workman

Versus

Managing Director,
State Bank of Indore
State Bank of India (after Merger),

Head Office, 5, Y.N. Road
Indore.

...Management

AWARD

(Passed on this 1st day of November 2013)

1. As per letter dated 31.12.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/146/98/IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Managing Director, State Bank of Indore (State Bank of India after merger) in terminating the services of Shri Abdul Khalique Khan w.e.f. 13.3.97 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 2/1 to 2/6. Case of workman is that as per order dated 13.3.97, penalty or removal from service is passed against him. The legality of the order of removal from service is challenged by this reference. It is further submitted that the workman entered service in State Bank of Indore as clerk on 16.9.72. Because of his meritorious service, he was promoted as Teller. That no adverse report was received against him. As per ordersheet dated 24-3-94, he was placed under suspension. Chargesheet was issued to him on 22-9-94. 3 charges were alleged against him pertaining to embezzlement of money, making false entries in pass book, issuing pass book of loan account without permission and authentication and discounting of cheques relating to large amounts. That additional chargesheet was issued to him on 11-10-94 alleging charges of making fake pass book entries, obtaining payment of cheques against clearing, making of entries in self account which cannot be treated as normal transactions.

3. Workman has also pleaded that the enquiry proceedings were conducted in which the employees and the officers of the branch concerned were produced as witnesses. The enquiry was not properly conducted, no handwriting expert was consulted or produced before the enquiry for establishing that the entries made in the pass book and other documents were in his handwriting. The customers had given statements that no money is due to them from workman. That workman had submitted before Enquiry Officer that the documents pass book, slips should be subjected to scrutiny by expert. That Enquiry Officer recorded findings that charges were proved. The findings of the Enquiry Officer are based on conjectures without supporting evidence. That there is no evidence to prove the charges. The management had tried to inflict penalty without justifying the chargesheet issued to him. On such ground, workman prays for setting aside the order of his removal from service.

4. IInd party filed Written Statement at Page 6/1 to 6/10. It is not disputed that workman was initially appointed as clerk on 16-9-92. He was promoted to the post of Teller

posted at Bank Note Press Branch, Dewas from 30-5-83. That while Ist party workman was posted as letter in Bank Note Press, Branch Devas, he committed acts of omission, mis-appropriation, irregularities. Complaints were received from customer. After receiving complaint, Bank decided to make preliminary investigation. Shri Neeraj Nayak an officer of the Bank was entrusted to make preliminary investigation of the complaint. After receiving preliminary investigation report, workman was suspended on 24-3-94. The chargesheet was issued and enquiry was conducted against workman. Workman was given opportunity for his defence. That Shri Ram Atre was appointed as Enquiry Officer and Shri H.K. Gupta was Presenting Officer. The copy of preliminary report was furnished to the workman. The Departmental enquiry was conducted on various dates. The statements of management's witnesses Ashok Dubey, Rajeev Pednekar, Pramod Moghe, Girish Dubey and Ramnarayan Parmar were recorded. Witnesses were cross-examined by Defence Representative. Principles of natural justice were followed. The charges were proved from evidence in the Enquiry Proceedings. The Enquiry Report was served on Ist party workman. The Disciplinary Authority exercised powers in Para-21 (4)(b) of Bipartite Settlement dated 14-2-95 imposed punishment of removal of service of Ist party workman. The period spent from him for suspension was to be treated as off duty. The appeal filed by workman was rejected. All other advers contentions of Ist party workman are denied by IInd party. IInd party prays for rejection of claim.

5. Vide order dated 16-3-2012, my predecessor found enquiry conducted against workman as legal. That management has no need to prove misconduct by evidence in Court.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

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|---|------------------|
| (i) Whether the action of the management of Managing Director, State Bank of Indore (State Bank of India after merger) in terminating the services of Shri Abdul Khalique Khan w.e.f. 13-3-97 is legal? | In Affirmative |
| (ii) Whether workman is entitled to benefit of superannuation? | In Negative |
| (iii) If not, what relief the workman is entitled to? | Relief rejected. |

REASONS

7. Issue No. 1-As stated above, enquiry conducted against workman is found legal and proper. Management is not required to adduce evidence to prove misconduct of the workman. Thus the question remains whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings or findings of Enquiry Officer are not supported by evidence. The record of

Enquiry Proceedings is produced. The witnesses of the management were cross-examined by Defence Representative. As learned counsel for workman did not advanced any argument about the findings of the Enquiry Officer and evidence in the Enquiry Proceedings. Absolutely no arguments were advanced that findings of Enquiry Officer that misconduct alleged against workman are proved therefore I make a precise reference that witnesses of the management have stated that the entries in pass book and relevant documents were in handwriting of Ist party workman. The Ist party workman has exercised in his pleadings as well as before the Enquiry Officer that opinion of expert should be obtained about signatures of documents, pass books, pay slips etc. The evidence of Enquiry Officer clearly shows that he had not obtained opinion of handwriting expert. He had compared signature of workman from the documents in Bank with the signatures on relevant document. The burden of proof in domestic enquiry is not similar to burden of proof in criminal proceedings. The degree of burden of proof is much less in matter of Departmental Enquiry. The charges are not required to be proved beyond reasonable doubts as in criminal case. The evidence is to establish probabilities needs to be considered. As discussed above, learned counsel for Ist party workman. Shri N.K. Salunke did not advanced arguments about findings of Enquiry Officer are not supported by sufficient evidence or any evidence or whether it is case of no evidence. The learned counsel rather advanced arguments that order removal was passed as per Para 21(4)(b) of the standing orders. It was emphasized that workman be given superannuation claims. That the application was also submitted along with statement of claim but no order was passed.

8. Learned counsel for IInd party Mr. Mishra appearing for his Sr. Rajnish Gupta Advocate submitted that the superannuation dues can be paid if found eligible. There was no dispute that State Bank of Indore is merged in State Bank of India. Careful examination of record of Enquiry Proceeding shows that findings of Enquiry Officer are supported by evidence and same cannot be said perverse.

9. Learned counsel for Ist party workman Shri Salunke submitted that the Appellate Authority had made observations about the superannuation benefits is justified. Considering arguments advanced by learned counsel that directions may be given to the management for payment of superannuation benefit to workman, it is necessary to refer to observations made by the Appellate Authority in his order. At Page 2 of the order passed by Appellate Authority, it is observed that I have come to the conclusion that punishment of removal from service as contained in Para 21(b) of Bipartite Settlement dated 14-2-95 which doesnot disqualify you from other superannuation benefits is justified. In these circumstances, there is no justification to interfere with the punishment imposed by the Disciplinary Authority. The appeal was dismissed and the order of Disciplinary Authority was confirmed. The

Disciplinary Authority has passed final order of punishment dated 17-3-97 (D-15). At page 3, the Disciplinary Authority writes your past record of service and also your prayer for compassion, I impose following punishment on you as contemplated in Para 21(iv)(b) of the Bipartite Settlement dated 14-2-1995—

"Removal from service" Period spent by you suspension shall be treated as off duty and consequently you are not entitled to any salary, allowance increments, other benefits to which you would have been entitled to had you been on duty. Copy of Bipartite Settlement is produced on record. Clause 21(iv)(b) Document 4/108 provides—

(iv) In supersession of clause 19.6 of the Settlement dated 19-10-66 between IBA ad AIBEA para (521(5) of the Sastry award ad para 18.28 of the Desai award, clause 17.6 of the settlement between IOB ad AIOBEU dated 14-12-66 and Clause 19.6 of the Settlement between BOB and AIBOBEF dated 23-12-1966 and Clause IV(3) of the Settlement dated 31-10-1979, an employee found guilty of gross misconduct may—

- (a)
- (b) Be compulsorily retired/removed from service/discharged with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment is not connected with the punishment of compulsory retirement or removal from service.

The benefit imposed by the Disciplinary Authority is of removal from service. The order of Disciplinary Authority is silent about the superannuation benefit rather the order of the Disciplinary Authority speaks that the period of suspension would be treated on duty and the workman would not get any allowances as if he would have received while on duty. Thus the order of punishment imposed by the Disciplinary Authority doesnot includes payment of superannuation benefit to the workman though the Appellate Authority has made certain observations about entitlement of superannuation benefits to the workman. However the order passed by Disciplinary Authority was not modified/altered. The appeals has been dismissed. Therefore I do not find substance in the argument advanced by the learned counsel for workman. Considering the misconduct relating to mis-appropriation of amount, punishment cannot be said disproportionate. For above reasons, I record my finding in Point No. 1, 2 in Affirmative.

10. In the result, award is passed as under:—

- (1) Action of the management of Managing Director, State Bank of Indore (State Bank of India after merger) in terminating the services of Shri Abdul Khaliq Khan w.e.f. 13-3-97 is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer